STATE OF KANSAS

2024 SESSION LAWS OF KANSAS VOL. 1

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

PASSED DURING THE 2024 REGULAR SESSION OF THE LEGISLATURE OF THE STATE OF KANSAS

Date of Publication of this Volume
July 1, 2024

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 2024 regular session of the Legislature of the State of Kansas, begun on the 8th day of January, AD 2024, and concluded on the 30th day of April, AD 2024; 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 2024, except when otherwise provided.

Given under my hand and seal this 1st day of July, AD 2024.

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 The bill index, subject index, and list of statutes repealed or amended will assist you in locating bills of interest.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

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

Scott Schwab
Secretary of State
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Topeka, KS 66612-1594
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TABLE OF CONTENTS

2024 Session Laws - Volume 2

2024 Session Laws - Volume 3

2024 Concurrent Resolutions

2024 Special Session

2024 Special Session Laws

2024 Special Session Concurrent Resolutions

OFFICIAL DIRECTORY

ELECTIVE STATE OFFICERS

Office	*Name*	*Residence*	*Party*
Governor	**Laura Kelly**	Topeka	Dem.
Lieutenant Governor	**David Toland**	Iola	Dem.
Secretary of State	**Scott Schwab**	Olathe	Rep.
State Treasurer	**Steven Johnson**	Assaria	Rep.
Attorney General	**Kris Kobach**	Lecompton	Rep.
Commissioner of Insurance	**Vicki Schmidt**	Topeka	Rep.

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Dist.	*Name and residence*	*Dist.*	*Name and residence*
1	**Danny Zech,** Leavenworth	6	**Dr. Deena Horst,** Salina
2	**Melanie Haas,** Overland Park	7	**Dennis Hershberger,** Hutchinson
3	**Michelle Dombrosky,** Olathe	8	**Betty J. Arnold,** Wichita
4	**Ann E. Mah,** Topeka	9	**Jim Porter,** Fredonia
5	**Cathy Hopkins,** Hays	10	**Jim McNiece,** Wichita

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Name and residence	*Party*	*Term*
Roger Marshall, MD, Great Bend	Republican	term expires Jan. 3, 2027
Jerry Moran, Hays	Republican	term expires Jan. 3, 2029

UNITED STATES REPRESENTATIVES

(Terms expire January 3, 2025)

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, 517 Quail Nest Rd., Winfield 67156	Rep.	32
Baumgardner, Molly, 29467 Masters Ct., Louisburg 66053	Rep.	37
Billinger, Rick, PO Box 594, Goodland 67735	Rep.	40
Blasi, Chase, 1746 N. Blackstone Ct., Wichita 67235	Rep.	27
Bowers, Elaine, 1326 N. 150th Rd., Concordia 66901	Rep.	36
Claeys, J.R., 426 Greystone Dr., Salina 67401	Rep.	24
Corson, Ethan, PO Box 8296, Prairie Village 66208	Dem.	7
Dietrich, Brenda, 6110 SW 38th Terr., Topeka 66610	Rep.	20
Doll, John, 2927 Cliff Pl., Garden City 67846	Rep.	39
Erickson, Renee, 26 N. Cypress Dr., Wichita 67206	Rep.	30
Fagg, Michael, 1810 Terrace Dr., El Dorado 67042	Rep.	14
Faust-Goudeau, Oletha, PO Box 20335, Wichita 67208	Dem.	29
Francisco, Marci, 1101 Ohio, Lawrence 66044	Dem.	2
Gossage, Beverly, 9325 Evening Star Terr., Eudora 66025	Rep.	9
Haley, David, 936 Cleveland Ave., Kansas City 66101	Dem.	4
Holland, Tom, 961 E. 1600 Rd., Baldwin City 66006	Dem.	3
Holscher, Cindy, Overland Park	Dem.	8
Kerschen, Dan, 645 S. 263 West, Garden Plain 67050	Rep.	26
Kloos, Rick, Berryton	Rep.	19
Longbine, Jeff, 2801 Lakeridge Rd., Emporia 66801	Rep.	17
Masterson, Ty, PO Box 424, Andover 67002	Rep.	16
McGinn, Carolyn, PO Box A, Sedgwick 67135	Rep.	31
Olson, Robert, 15944 S. Clairborne St., Olathe 66062	Rep.	23
O'Shea, Kristen, PO Box 8848, Topeka 66608-0848	Rep.	18
Peck, Virgil, PO Box 299, Havana 67374	Rep.	15
Petersen, Mike, 2608 Southeast Dr., Wichita 67216	Rep.	28
Pettey, Pat, 5316 Lakewood St., Kansas City 66106	Dem.	6
Pittman, Jeff, 1108 S. Broadway, Leavenworth 66048	Dem.	5
Pyle, Dennis, 2979 Kingfisher Rd., Hiawatha 66434	Rep.	1
Reddi, Usha, 1801 Westbank Way, Manhattan 66503	Dem.	22
Ryckman, Ronald, PO Box 192, Meade 67864	Rep.	38
Shallenburger, Tim, 1538 Garfield, Baxter Springs 66713	Rep.	13
Steffen, Mark, 3500 N. Mayfield Rd., Hutchinson 67502	Rep.	34
Straub, Alicia, 401 S. Kennedy, Ellinwood 67526	Rep.	33
Sykes, Dinah, 10227 Theden Cir., Lenexa 66220	Dem.	21
Thompson, Mike, 4923 Constance St., Shawnee 66216	Rep.	10
Tyson, Caryn, PO Box 191, Parker 66072	Rep.	12
Ware, Mary, 1444 N. Perry, Wichita 67203	Dem.	25
Warren, Kellie, 14505 Falmouth St., Leawood 66224	Rep.	11
Wilborn, Rick, 1504 Heritage Pl., McPherson 67460	Rep.	35

HOUSE OF REPRESENTATIVES

Name and residence	*Party*	*Dist.*
Alcala, John, 520 NE Lake, Topeka 66616	Dem.	57
Amyx, Mike, 501 Lawrence Ave., Lawrence 66049	Dem.	45
Anderson, Avery, PO Box 305, Newton 67114	Rep.	72
Awerkamp, Francis, 807 W. Linn St., St. Marys 66536	Rep.	61
Ballard, Barbara, 1532 Alvamar Dr., Lawrence 66047	Dem.	44
Barth, Carrie, Baldwin City	Rep.	5
Bergkamp, Brian, 2118 S. Wheatland St., Wichita 67235	Rep.	93
Bergquist, Emil, 6430 N. Hydraulic, Park City 67219	Rep.	91
Blew, Tory Marie, PO Box 103, Great Bend 67530	Rep.	112
Blex, Doug, 3131 CR 2600, Independence 67301	Rep.	12
Bloom, Lewis, 1901 Frontier Rd., Clay Center 67432	Rep.	64
Borjon, Jesse, 5326 SW 40th Terr., Topeka 66610	Rep.	52
Bryce, Ron, PO Box 486, Coffeyville 67337	Rep.	11
Buehler, David, 606 Canyon View Dr., Lansing 66043	Rep.	40
Butler, Nathan, 910 Countryside Ct., Junction City 66441	Rep.	68
Carlin, Sydney, 1650 Sunnyslope Ln., Manhattan 66502	Dem.	66
Carmichael, John, 1475 N. Lieunett, Wichita 67203	Dem.	92
Carpenter, Blake, Derby	Rep.	81
Carpenter, Will, 6965 SW 18th, El Dorado 67042	Rep.	75
Carr, Ford, PO Box 20606, Wichita 67208	Dem.	84
Clayton, Stephanie Sawyer, 9825 Woodson Dr., Overland Park 66207	Dem.	19
Clifford, Bill, 102 Drury Ln., Garden City 67846	Rep.	122
Collins, Kenneth, 102 E. 1st St., Mulberry 66756	Rep.	2
Concannon, Susan, 921 N. Mill St., Beloit 67420	Rep.	107
Corbet, Ken, 10351 SW 61st, Topeka 66610	Rep.	54
Croft, Chris, 8909 W. 148th Terr., Overland Park 66221	Rep.	8
Curtis, Pam, 322 N. 16th St., Kansas City 66102	Dem.	32
Delperdang, Leo, 2103 N. Pintail, Wichita 67235	Rep.	94
Dodson, Michael, 4109 Wellington Dr., Manhattan 66503	Rep.	67
Droge, Duane, 1215 US-54 Hwy., Eureka 67045	Rep.	13
Ellis, Ronald, 9199 K-4 Hwy., Meriden 66512	Rep.	47
Eplee, John, 163 Deer Run, Atchison 66002	Rep.	63
Essex, Robyn, 1137 E. Frontier Dr., Olathe 66062	Rep.	78
Estes, Susan, PO Box 781244, Wichita 67278	Rep.	87
Fairchild, Brett, 150 NW 40th St., St. John 67576	Rep.	113
Featherston, Linda, PO Box 13447, Overland Park 66282	Dem.	16
Francis, Shannon, 1501 Tucker Ct., Liberal 67901	Rep.	125
Garber, Randy, 2424 Timberlane Terr., Sabetha 66534	Rep.	62
Gardner, Fred, PO Box 275, Garnett 66032	Rep.	9
Goddard, Dan, 3420 Mosher Rd., Parsons 67357	Rep.	7
Goetz, Jason, 2425 Bell Ave., Dodge City 67801	Rep.	119
Haskins, Kirk, 1035 Ashworth Rd., Topeka 66604	Dem.	53
Haswood, Christina, PO Box 3083, Lawrence 66046	Dem.	10
Hawkins, Daniel R., 9406 Harvest Ln., Wichita 67212	Rep.	100
Helgerson, Henry, 12 E. Peach Tree Ln., Eastborough 67207	Dem.	83
Highberger, Dennis "Boog", 1024 New York, Lawrence 66044	Dem.	46
Hill, Scott, 907 N. Buckeye, Abilene 67410	Rep.	70

Name and residence	*Party*	*Dist.*
Hoffman, Kyle, 1318 Avenue T, Coldwater 67029	Rep.	116
Hoheisel, Nick, 3731 W. Angel St., Wichita 67217	Rep.	97
Hougland, Allison, PO Box 292, Olathe 66051	Dem.	15
Houser, Michael, 6891 SW 10th, Columbus 66725	Rep.	1
Howe, Steven, Salina	Rep.	71
Howell, Leah, 1451 Hilltop, Derby 67037	Rep.	82
Howerton, Cyndi, 1400 E. 59th Ct. S, Wichita 67216	Rep.	98
Hoye, Jo Ella, 8517 Alden Ln., Lenexa 66215	Dem.	17
Humphries, Susan, 8 Sagebrush St., Wichita 67230	Rep.	99
Jacobs, Trevor, 1927 Locust Rd., Fort Scott 66701	Rep.	4
Johnson, Timothy, 14135 Mitchell Court, #A, Basehor 66007	Rep.	38
Kessler, Tom, 4560 S. Washington, Wichita 67216	Rep.	96
Landwehr, Brenda, 2611 N. Bayside Ct., Wichita 67205	Rep.	105
Lewis, Bob, PO Box 8, Garden City 67846	Rep.	123
Martinez, Angela, PO Box 2454, Wichita 67201	Dem.	103
Mason, Les, 108 Arcadian Ct., McPherson 67460	Rep.	73
Maughan, Carl, PO Box 75, Colwich 67030	Rep.	90
McDonald, Nikki, 15050 W. 138th St., Suite 4742, Olathe 66063	Dem.	49
McNorton, Kyle, 1534 NE 39th St., Topeka 66617	Rep.	50
Melton, Lynn, 4028 Independence Blvd., Kansas City 66109	Dem.	36
Meyer, Heather, PO Box 13346, Overland Park 66282	Dem.	29
Miller, Dennis, 1205 N. Cooper St., Olathe 66061	Dem.	14
Miller, Silas, 203 S. Lorraine, Wichita 67211	Dem.	86
Miller, Vic, 1174 SW Fillmore, Topeka 66604	Dem.	58
Minnix, Jim, 1213 Jackson, Scott City 67871	Rep.	118
Moser, Lisa M., 3063 26th Rd., Wheaton 66521	Rep.	106
Murphy, Michael, 35810 W. Greenfield Rd., Sylvia 67581	Rep.	114
Neelly, Lance, 2129 Willowbend Dr., Tonganoxie 66086	Rep.	42
Neighbor, Cindy, 10405 W. 52nd Terr., Shawnee 66203	Dem.	18
Ohaebosim, KC, PO Box 21271, Wichita 67208	Dem.	89
Oropeza, Melissa, PO Box 6014, Kansas City 66106	Dem.	37
Osman, Dan, PO Box 25352, Overland Park 66225	Dem.	48
Ousley, Jarrod, 6800 Farley, Merriam 66203	Dem.	24
Owens, Stephen, PO Box 606, Hesston 67062	Rep.	74
Penn, Patrick, 2250 N. Rock Rd., Ste. 118-193, Wichita 67226	Rep.	85
Pickert, Sandy, 8434 E. Mt Vernon Ct., Wichita 67207	Rep.	88
Poetter Parshall, Samantha, 20355 W. 299th St., Paola 66071	Rep.	6
Poskin, Mari-Lynn, 12924 Howe Dr., Leawood 66209	Dem.	20
Probst, Jason, PO Box 3262, Hutchinson 67504	Dem.	102
Proctor, Pat, 624 Kickapoo St., Leavenworth 66048	Rep.	41
Rahjes, Ken, 1798 E. 900 Rd., Agra 67621	Rep.	110
Resman, John, 434 North Persimmon Dr., Olathe 66061	Rep.	121
Rhiley, Bill, 403 S. West Rd., Wellington 67152	Rep.	80
Robinson, Marvin, 713 Lafayette, Kansas City 66101	Dem.	35
Roth, Webster, PO Box 867, Winfield 67156	Rep.	79
Ruiz, Louis, 2914 W. 46th Ave., Kansas City 66103	Dem.	31
Ruiz, Susan, 7306 Bond St., Shawnee 66203	Dem.	23
Sanders, Clarke, 2096 Leland Way, Salina 67401	Rep.	69
Sawyer, Tom, 1041 S. Elizabeth, Wichita 67213	Dem.	95

Name and residence	*Party*	*Dist.*
Schlingensiepen, Tobias, PO Box 3714, Topeka 66604	Dem.	55
Schmoe, Rebecca, 1526 S. Cedar St., Ottawa 66067	Rep.	59
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, Chuck, 2112 W. 4th, Pittsburg 66762	Rep.	3
Smith, Eric, 627 Kennebec St., Burlington 66839	Rep.	76
***Stiens, Angela,** 5409 Aminda, Shawnee 66226	Rep.	39
Stogsdill, Jerry, 4414 Tomahawk Rd., Prairie Village 66208	Dem.	21
Sutton, Bill, 215 W. Park St., Gardner 66030	Rep.	43
Tarwater, Sean, 16006 Meadow Ln., Stilwell 66085	Rep.	27
Thomas, Adam, 16272 S. Sunset St., Olathe 66062	Rep.	26
Thompson, Mike, 642 N. Nettleton Ave., Bonner Springs 66012	Rep.	33
Titus, Kenny, 8727 Kinzie Jo's Way, Manhatan 66502	Rep.	51
Turk, Adam, 6926 Roundtree St., Shawnee 66226	Rep.	117
Turner, Carl, 13001 El Monte St., Leawood 66209	Rep.	28
Underhill, Jeff, PO Box 864, Junction City 66441	Rep.	65
Vaughn, Lindsay, PO Box 4272, Overland Park 66204	Dem.	22
Waggoner, Paul, PO Box 3184, Hutchinson 67504	Rep.	104
Wasinger, Barb, PO Box 522, Hays 67601	Rep.	111
Waymaster, Troy, 3528 192nd St., Bunker Hill 67626	Rep.	109
Weigel, Virgil, 1900 SW Briarwood Dr., Topeka 66611	Dem.	56
White, Gary, PO Box 674, Ashland 67831	Rep.	115
Williams, Kristey, 506 Stone Court Lake Ct., Augusta 67010	Rep.	77
Williams, Laura, Lenexa	Rep.	30
Winn, Valdenia, PO Box 12327, Kansas City 66112	Dem.	34
Woodard, Brandon, PO Box 19271, Lenexa 66285	Dem.	108
Xu, Rui, 4724 Belinder Ave., Westwood 66205	Dem.	25
Younger, David, 320 W. Kansas, Ulysses 67880	Rep.	124

* Angela Stiens was sworn in on March 13 to replace Owen Donohoe.

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Ty Masterson.....President
Rick Wilborn..... Vice President
Larry Alley.....Majority Leader
Dinah Sykes.....Minority Leader

OFFICERS OF THE HOUSE

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Blake Carpenter.....Speaker Pro Tem
Chris Croft.....Majority Leader
Vic Miller.....Minority Leader

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Vice President of the Senate: **Rick Wilborn,** McPherson
Speaker Pro Tem of the House of Representatives: **Blake Carpenter,** Derby
Senate Majority Leader: **Larry Alley,** Winfield
House Majority Leader: **Chris Croft,** Overland Park
Senate Minority Leader: **Dinah Sykes,** Lenexa
House Minority Leader: **Vic Miller,** Topeka

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Kristen Rottinghaus, Deputy Post Auditor
Matt Etzel, Performance Audit Manager
Katrin Osterhaus, IT Audit Manager

LEGISLATIVE RESEARCH DEPARTMENT

***Shirley D. Morrow,** Acting Director
Melissa Renick, Assistant Director for Research
Dylan Dear, Assistant Director for Fiscal Affairs

* Ms. Morrow replaced retired director, J.G. Scott, March 16, 2024.

DIVISION OF LEGISLATIVE ADMINISTRATIVE SERVICES

Thomas A. Day, Director

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2024 SESSION LAWS OF KANSAS

CHAPTER 1

SENATE BILL No. 15

AN ACT concerning employment; relating to persons with disabilities; increasing the maximum yearly amount of income tax credits available for purchases under the disability employment act from qualified vendors and continuing in existence such credits beyond tax year 2023; defining qualifying vendors and eligible employees; establishing a grant program administered by the secretary of labor to facilitate transitions from subminimum to at least minimum wage employment for persons with disabilities; creating the Kansas sheltered workshop transition fund; amending K.S.A. 79-32,273 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 3, and amendments thereto:

(a) "Kansas sheltered workshop employer" or "workshop employer" means a private nonprofit, state or local government institution that provides employment opportunities for individuals with intellectual, developmental or physical disabilities and provides such employment opportunities for all or a portion of such individuals under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c).

(b) "Secretary" means the secretary of labor.

New Sec. 2. (a) There is hereby created in the state treasury the Kansas sheltered workshop transition fund. The secretary of labor shall administer the fund. All expenditures from the fund shall be for the purpose of facilitating transitions by Kansas sheltered workshop employers away from employing individuals with disabilities under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c) and toward paying all such employees at least the minimum wage. Such purpose shall be achieved by providing matching grants from fund moneys to Kansas sheltered workshop employers that commit to paying at least the minimum wage to all employees. A grant shall be matched on a $1-to-$1 basis by the Kansas sheltered workshop employer from nonstate sources.

(b) Applications for matching grants shall be made by Kansas sheltered workshop employers to the secretary in the form and manner required by the secretary. In determining whether applicants should be

approved and receive a grant, the secretary shall seek the assistance of the secretary for children and families, the secretary for aging and disability services or any other appropriate state agency. The secretary for children and families, secretary for aging and disability services or other state agency shall provide such assistance to the secretary as requested by the secretary. The applicant shall provide a transition plan to the secretary demonstrating how the applicant will use the grant and other funding to transition away from use of a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c). The Kansas sheltered workshop shall commit to completing the plan to receive a grant. If the secretary approves the transition plan, finds that the Kansas sheltered workshop has sufficient nonstate funding to match the grant with nonstate funds on a $1-to-$1 basis and approves the application, the secretary shall award the Kansas sheltered workshop a matching grant in the amount determined by the secretary. The secretary may award subsequent additional grants to the same Kansas sheltered workshop employer upon satisfactory progress shown by such workshop employer pursuant to the workshop employer's transition plan.

(c) Kansas sheltered workshop employers that receive a matching grant shall provide such information to the secretary as requested, excluding any information prohibited from disclosure under state or federal law, regarding the use of grant funds, use of associated nonstate funds and progress made toward achievement of the transition plan as developed pursuant to subsection (b). Such information shall be utilized by the secretary to analyze and monitor the use of grant funds and compliance with and progress toward completion of the transition plan by workshop employers and to develop best uses of grant funds and transition methods to attain the goal of sections 1 through 3, and amendments thereto.

(d) On or before January 31, 2025, and annually on or before January 31 thereafter, the secretary shall report to the house of representatives standing committee on commerce, labor and economic development or its successor committee and the senate standing committee on commerce or its successor committee on the amount and uses of grant funding by each Kansas sheltered workshop employer that has received a matching grant and the progress made by each Kansas sheltered workshop employer toward the goal of sections 1 through 3, and amendments thereto.

(e) All expenditures from the Kansas sheltered workshop transition fund shall be for the purpose described in subsection (a) and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of labor or the secretary's designee.

(f) On July 1, 2024, and each July 1 thereafter, or as soon thereafter as moneys may be available, the director of accounts and reports shall

transfer $1,000,000 from the state economic development initiatives fund established by K.S.A. 79-4804, and amendments thereto, to the Kansas sheltered workshop transition fund.

New Sec. 3. The provisions of sections 1 through 3, and amendments thereto, shall expire on July 1, 2034. On July 1, 2034, the director of accounts and reports shall transfer all unencumbered moneys in the Kansas sheltered workshop transition fund to the state general fund. After such transfer, the Kansas sheltered workshop transition fund shall be abolished and all liabilities of the Kansas sheltered workshop transition fund shall be transferred to and imposed on the state general fund.

Sec. 4. K.S.A. 79-32,273 is hereby amended to read as follows: 79-32,273. (a) ~~For tax years 2019 through 2023,~~ *The provisions of this section shall be known and may be cited as the disability employment act.*

(b) A credit shall be allowed against the tax imposed by the Kansas income tax act in an amount equal to 15% of the amount for expenditures of goods and services purchased by the taxpayer from a qualified vendor on and after January 1, 2019, ~~and before January 1, 2024~~ *including such expenditures made on and after January 1, 2024, but prior to the effective date of this act*, as certified by the secretary of commerce as provided in subsection ~~(c)~~ *(d)*. The amount of such credit awarded for each taxpayer shall not exceed $500,000 per qualified vendor per tax year. In no event shall the total amount of cumulative credits allowed under this section exceed*:*

(1) $5,000,000 *for tax years 2019 through 2023;*

(2) $8,000,000 for ~~all~~ tax years ~~that the credit remains in effect~~ *2024 through 2028; and*

(3) $8,000,000 for each consecutive five tax years thereafter starting with tax year 2029.

~~(b)~~*(c)* The tax credit allowed by this section shall be deducted from the taxpayer's income tax liability for the tax year in which the expenditures were made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such tax year, the taxpayer may carry over the amount that exceeds such tax liability for deduction from the taxpayer's liability in the next succeeding tax 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 tax year succeeding the tax year in which the expenditures were incurred.

~~(c)~~*(d)* The secretary of commerce shall annually certify that expenditures for goods and services purchased by a taxpayer subject to the tax credit provided in this section were made from a qualified vendor, and provide such certification to the secretary of revenue. The secretary of commerce is hereby authorized to promulgate rules and regulations for establishing criteria based on the provisions of K.S.A. 75-3317 et seq., and

amendments thereto, for evaluating whether purchases by taxpayers from a qualified vendor should be certified as provided in this section, with the assistance and approval of the secretary of revenue.

~~(d)~~*(e)* As used in this section:

(1) ~~"Certified business"~~*"Qualified vendor"* means*:*

(A) Any business ~~certified by the department of administration~~ that *qualifies as a certified business pursuant to K.S.A. 75-3740, and amendments thereto, and is a not-for-profit business that* is a sole proprietorship, partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that:

~~(A)~~*(i)* Does business primarily in Kansas or substantially all of its production in Kansas;

~~(B)~~*(ii)* employs at least 30% of its employees *in an integrated setting* who are individuals with disabilities and reside in Kansas;

~~(C)~~*(iii)* offers to contribute at least 75% of the premium cost for individual health insurance coverage for each *eligible* employee. The department of administration shall require a certification of these facts; and

~~(D)~~*(iv)* does not employ individuals under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c);

(B) qualifies as a qualified vendor pursuant to K.S.A. 75-3317, and amendments thereto, and also:

(i) Employs at least 30% of its employees in an integrated setting;

(ii) offers to contribute at least 75% of the premium cost for individual health insurance coverage for each eligible employee or offers a qualified company-sponsored insurance plan under the affordable care act or pays the required subsidy to the internal revenue service for employees who purchase insurance through the open market, if a company-sponsored plan is not offered. If any such company is not covered under the affordable care act and does not offer a company-sponsored insurance plan, such company must offer assistance to the employee to cover at least 75% of their health insurance costs through a health savings account or other legal and appropriate methodology; and

(iii) does not employ individuals under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c); or

(C) a division within a Kansas not-for-profit organization that:

(i) Does business primarily in Kansas or substantially all of its production in Kansas;

(ii) within such division, employs in an integrated setting at least 30% of its employees who are individuals with disabilities and reside in Kansas;

(iii) within such division, offers to contribute at least 75% of the premium cost for individual health insurance coverage for each eligible employee or offers a qualified company-sponsored insurance plan under the affordable care act or pays the required subsidy to the internal revenue

service for employees who purchase insurance through the open market, if a company-sponsored plan is not offered. If any such company is not covered under the affordable care act and does not offer a company-sponsored insurance plan, such company must offer assistance to the employee to cover at least 75% of their health insurance costs through a health savings account or other legal and appropriate methodology; and

(iv) does not employ individuals under a certificate issued by the United States secretary of labor under 29 U.S.C. § 214(c) and the Kansas not-for-profit organization, including any other division within the Kansas not-for-profit organization, does not employ individuals under such a certificate.

(2) "Individuals with disabilities" or "individual with a disability" means any individual who:

(A) Is certified by the Kansas department for aging and disability services or by the Kansas department for children and families, which administers the rehabilitation services program *or by a healthcare provider determined by the secretary of revenue, that shall include, but is not limited to, medical doctors, doctors of osteopathy, physician assistants, nurse practitioners, physical therapists, occupational therapists and optometrists who can substantiate an individual* as having a physical or mental impairment that constitutes a substantial barrier to employment; *and*

(B)~~ works a minimum number of hours per week for a certified business necessary to qualify for health insurance coverage offered pursuant to subsection (d)(1); and~~

~~(C)~~ (i) is receiving services, has received services or is eligible to receive services under a home and community based services program, as defined by K.S.A. 39-7,100, and amendments thereto;

(ii) is employed by a charitable organization domiciled in the state of Kansas and exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended; or

(iii) is an individual with a disability pursuant to the disability standards established by the social security administration as determined by the Kansas disability determination services under the Kansas department for children and families~~; and~~

~~(3) "qualified vendor" means an entity that:~~

~~(A) Is a "qualified vendor" pursuant to K.S.A. 75-3317, and amendments thereto, or is a "certified business" that is also a nonprofit organization pursuant to K.S.A. 75-3740, and amendments thereto;~~

~~(B) pays minimum wage or above to all their employees in a manner that meets the definition of "competitive employment" pursuant to K.S.A. 44-1136, and amendments thereto;~~

~~(C) meets the definition of employing all of their workers in an "integrated setting" pursuant to K.S.A. 44-1136, and amendments thereto; and~~

~~(D) offers a qualified company-sponsored insurance plan under the affordable care act or pays the required subsidy to the internal revenue service for employees who purchase insurance through the open market, if a company-sponsored plan is not offered. If any such company is not covered under the affordable care act, and does not offer a company-sponsored insurance plan, such company must offer assistance to the employee to cover at least 75% of their health insurance costs through a health savings account or other legal and appropriate methodology~~.

~~(e)~~*(f)* The secretary of revenue shall report to the house committee on taxation and the senate committee on assessment and taxation on or before February 1, 2021, 2022, and 2023, concerning the implementation and effectiveness of the credit provided in this section.

Sec. 5. K.S.A. 79-32,273 is hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved February 8, 2024.

Published in the *Kansas Register* February 15, 2024.

CHAPTER 2

SENATE BILL No. 195*

AN ACT concerning the children's cabinet; authorizing the cabinet to establish a nonprofit corporation to raise funds to benefit the Dolly Parton's imagination library book gifting program.

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

Section 1. (a) The children's cabinet 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 the members of the children's cabinet, the executive director of the children's cabinet and other directors designated by the children's cabinet.

(b) The purpose of the nonprofit corporation shall be to receive gifts, donations, grants and other moneys and engage in fundraising projects for the benefit of the Dolly Parton's imagination library book gifting program to develop, implement, promote and sustain reading by the children of Kansas.

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

Approved March 15, 2024.

CHAPTER 3

SENATE BILL No. 307

AN ACT concerning the Kansas fights addiction act; adding for-profit private entities to the definition of "qualified applicant"; authorizing members of the Kansas fights addiction grant review board to be paid subsistence allowances, mileage and other expenses when attending meetings of the board after January 8, 2024; amending K.S.A. 2023 Supp. 75-776 and 75-778 and repealing the existing sections.

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

Section 1. K.S.A. 2023 Supp. 75-776 is hereby amended to read as follows: 75-776. As used in K.S.A. ~~2022~~ *2023* Supp. 75-775 through 75-781, and amendments thereto:

(a) "Act" means the Kansas fights addiction act.

(b) "Covered conduct" means any conduct covered by opioid litigation that resulted in payment of moneys into the Kansas fights addiction fund.

(c) "Defendant" means a defendant or putative defendant in any opioid litigation.

(d) "Moneys that are received" includes damages, penalties, attorney fees, costs, disbursements, refunds, rebates or any other monetary payment made or paid by any defendant by reason of any judgment, consent decree or settlement, after payment of any costs or fees allocated by court order.

(e) "Municipality" means the same as defined in K.S.A. 75-6102, and amendments thereto.

(f) "Opioid litigation" means any civil lawsuit, demand or settlement, including any settlement in lieu of litigation, alleging unlawful conduct in the manufacturing, marketing, distribution, prescribing or other use of opioid medications and asserting or resolving claims of the state or any municipality.

(g) "Qualified applicant" means any state entity, municipality ~~or,~~ not-for-profit private entity *or for-profit private entity* that provides services for the purpose of preventing, reducing, treating or otherwise abating or remediating substance abuse or addiction and that has released its legal claims arising from covered conduct against each defendant that is required by opioid litigation to pay into the fund.

(h) "State" means the state of Kansas, including any agency or official thereof.

(i) "Sunflower foundation" means the sunflower foundation: health care for Kansas, established pursuant to the settlement agreement entered into by the attorney general in the action filed by blue cross and blue shield of Kansas, inc., in the district court of Shawnee county, Kansas, case No. 97CV608.

Sec. 2. K.S.A. 2023 Supp. 75-778 is hereby amended to read as follows: 75-778. (a) There is hereby created under the jurisdiction of the attorney general the Kansas fights addiction grant review board. At least one member of such board shall reside in each of the state's congressional districts. Each member shall serve at the pleasure of the appointing authority. Such board shall be composed of 11 members who have expertise in the prevention, reduction, treatment or mitigation of the effects of substance abuse and addiction, as follows:

(1) One member appointed by the attorney general to be designated as chairperson of the board;

(2) one member appointed by the governor;

(3) one member appointed by the president of the senate;

(4) one member appointed by the speaker of the house of representatives;

(5) one member appointed by the minority leader of the senate;

(6) one member appointed by the minority leader of the house of representatives;

(7) one member appointed by the league of Kansas municipalities;

(8) one member appointed by the Kansas association of counties;

(9) one member appointed by the Kansas county and district attorneys association;

(10) one member appointed by the association of community mental health centers of Kansas; and

(11) one member appointed by the behavioral sciences regulatory board.

(b) The board shall receive and consider applications for grants of money from the Kansas fights addiction fund. Not fewer than six members of the board voting in the affirmative shall be necessary to approve each grant, and each member shall have one vote. The board may adopt rules and procedures for its operation, conduct hearings, receive testimony and gather information to assist in its powers, duties and functions under this act.

(c) In awarding grants, the board:

(1) Shall take care to support services throughout the state and shall ensure not less than 1/8 of the total amount of moneys granted each calendar year shall be for services in each of the state's congressional districts;

(2) shall take into account science and data-driven substance abuse prevention reduction, treatment or mitigation strategies;

(3) shall consult with the Kansas prescription drug and opioid advisory committee, the department of health and environment, the insurance department and other appropriate public and private entities to ensure coordination of drug abuse and addiction prevention and mitigation efforts throughout the state;

(4) shall approve grants only in compliance with the requirements of K.S.A. 2023 Supp. 75-777, and amendments thereto;

(5) shall consider the sustainability of programming after grant funds are exhausted;

(6) may establish conditions for the award of grants and require assurance and subsequent review to ensure such conditions are satisfied;

(7) may give preference to qualified applicants that are not otherwise seeking or receiving funds from opioid litigation; and

(8) may give preference to grants that expand availability of certified drug abuse treatment programs authorized by K.S.A. 21-6824, and amendments thereto.

(d) (1) The attorney general shall provide administrative support for the board and shall administer, monitor and assure compliance with conditions on grants awarded.

(2) To carry out the duties and responsibilities under paragraph (1), the attorney general may enter into an agreement with the sunflower foundation to provide such administration, monitoring and assurance of compliance. Such agreement may:

(A) Provide for the attorney general to periodically transfer moneys from the Kansas fights addiction fund to the sunflower foundation. The sunflower administration shall administer any such moneys in a manner consistent with this act and with grants approved by the board. If an agreement authorized by this subsection is in effect, the attorney general may transfer moneys from the Kansas fights addiction fund to the sunflower foundation pursuant to such agreement;

(B) provide for a reasonable fee or other compensation for the sunflower foundation for services related to this act;

(C) make provision for the use of any earnings on moneys transferred to the sunflower foundation pursuant to this act and invested by the sunflower foundation; and

(D) contain other provisions as may be reasonably necessary and appropriate to carry out the provisions of this act.

(3) The attorney general may take any action necessary to ensure the greatest possible recovery from opioid litigation and to seek funds for the Kansas fights addiction fund and the municipalities fight addiction fund.

(e) Members of the board shall not receive compensation ~~or~~, *except that members shall be paid subsistence allowances, mileage and other* expenses ~~for serving on~~ *as provided in K.S.A. 75-3223, and amendments thereto, when attending meetings of* the board *after January 8, 2024, if such members are not being reimbursed for such expenses by their appointing authority, employer or any other entity*. Each member shall file a statement of substantial interest as provided in K.S.A. 46-248 through

46-252, and amendments thereto. No member shall participate in the consideration of any grant application for which such member has a conflict of interest.

Sec. 3. K.S.A. 2023 Supp. 75-776 and 75-778 are hereby repealed.

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

Approved March 22, 2024.

CHAPTER 4

SENATE BILL No. 336

AN ACT concerning health and environment; relating to underground storage tanks; removing the requirement for underground storage tank operating permits to be obtained annually; amending K.S.A. 65-34,135 and repealing the existing section; also repealing K.S.A. 65-34,130.

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

Section 1. K.S.A. 65-34,135 is hereby amended to read as follows: 65-34,135. (a) Operators of underground storage tanks ~~must~~ *shall* complete a training program commensurate with their responsibility for the operation of underground storage tanks. The training program shall be approved by the department and ~~will~~ encompass three levels of training:

(1) Persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

(2) persons having daily on-site responsibility for the operation and maintenance of underground storage tank systems;

(3) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

(b) Storage tank operators ~~must~~ *shall* demonstrate that they have completed the training required by the department in order to obtain ~~an annual~~ *or renew a* permit for the operation of underground storage tanks.

(c) Operators of underground storage tanks ~~must~~ *shall* repeat the applicable training if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with a requirement or a standard of the department.

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

Sec. 2. K.S.A. 65-34,130 and 65-34,135 are hereby repealed.

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

Approved March 22, 2024.

CHAPTER 5

SENATE BILL No. 431*

AN ACT concerning the state capitol; directing the capitol preservation committee to approve plans for a memorial honoring the life of Emil Joseph Kapaun.

WHEREAS, Emil Joseph Kapaun was born in the farming community of Pilsen, Kansas, in 1916; and

WHEREAS, Emil Joseph Kapaun was ordained as a Roman Catholic priest in the Diocese of Wichita in 1940; and

WHEREAS, Emil Joseph Kapaun served as a chaplain in the United States Army and attained the rank of Captain; and

WHEREAS, Chaplain Kapaun served in the India-Burma Theater of the Pacific campaign in World War II and at the outbreak of the Korean War where he was captured in the Battle of Unsan for refusing to leave the wounded; and

WHEREAS, Chaplain Kapaun died as a prisoner of war in Pyoktong, North Korea, on May 23, 1951, after giving his life to serve his fellow prisoners of war; and

WHEREAS, President Barack Obama posthumously awarded Chaplain Kapaun with the Medal of Honor on April 11, 2013; and

WHEREAS, Chaplain Kapaun is the most highly decorated chaplain in United States Army history receiving the Legion of Merit, the Bronze Star Medal with "V" device, the Purple Heart, the Prisoner of War Medal and the Republic of Korea Taegeuk Order of Military Merit presented by President Moon Jae-In; and

WHEREAS, Chaplain Kapaun's life continues to inspire people across the United States and around the world; and

WHEREAS, Work is being undertaken to name Chaplain Kapaun as a saint in the Catholic Church, from whom he has received the designation of Servant of God; and

WHEREAS, Chaplain Kapaun's life embodies the Kansas spirit and exemplifies the state motto "Ad astra per aspera"; and

Now, therefore:

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

Section 1. (a) The capitol preservation committee shall approve plans to place a permanent memorial honoring the life of Emil Joseph Kapaun pursuant to K.S.A. 75-2269, and amendments thereto.

(b) The secretary of administration is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of financing the creation and construction of the memorial and to expend such moneys received for such purpose. The secretary of administration shall remit all moneys so received to the state treasurer in ac-

cordance 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 Emil Joseph Kapaun memorial fund. No public funds shall be expended for the purpose of financing the creation or construction of the memorial.

(c) There is hereby established in the state treasury the Emil Joseph Kapaun memorial fund. Expenditures from the fund may be made for the purposes of creating and constructing the memorial and for such other purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration or the secretary's designee.

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

Approved March 22, 2024.

CHAPTER 6

Senate Substitute for HOUSE BILL No. 2247
(Amended by Chapter 100)

AN ACT concerning financial institutions; relating to the Kansas mortgage business act; uniform consumer credit code; pertaining to certain definitions, terms and conditions contained therein; modifying consumer loan finance charges and repayment terms; record requirements; credit card surcharge; definition of earnings and days; increasing the threshold for certain consumer loans and leases; origination fees for non-real estate transactions; clarifying license requirements to make supervised loans; exempting supervised loan license form filing notifications; transferring mortgage provisions contained in the uniform consumer credit code to the Kansas mortgage business act; clarifying entities exempt for licensing; amending K.S.A. 9-2201, 9-2202, 9-2203, 9-2208, 9-2209, 9-2212, 9-2216, 9-2216a, 9-2220, 16-207, 16-207d, 16a-1-101, 16a-1-102, 16a-1-103, 16a-1-104, 16a-1-107, 16a-1-108, 16a-1-109, 16a-1-201, 16a-1-202, 16a-1-301, 16a-2-103, 16a-2-104, 16a-2-201, 16a-2-202, 16a-2-301, 16a-2-302, 16a-2-303, 16a-2-304, 16a-2-308, 16a-2-309, 16a-2-310, 16a-2-401, 16a-2-402, 16a-2-403, 16a-2-404, 16a-2-501, 16a-2-502, 16a-2-504, 16a-2-505, 16a-2-506, 16a-2-507, 16a-2-508, 16a-2-510, 16a-3-201, 16a-3-202, 16a-3-203, 16a-3-204, 16a-3-205, 16a-3-206, 16a-3-208, 16a-3-209, 16a-3-301, 16a-3-302, 16a-3-303, 16a-3-304, 16a-3-305, 16a-3-306, 16a-3-307, 16a-3-308, 16a-3-309, 16a-3-402, 16a-3-403, 16a-3-404, 16a-3-405, 16a-4-102, 16a-4-104, 16a-4-105, 16a-4-106, 16a-4-107, 16a-4-108, 16a-4-109, 16a-4-110, 16a-4-111, 16a-4-112, 16a-4-201, 16a-4-202, 16a-4-203, 16a-4-301, 16a-4-304, 16a-5-103, 16a-5-107, 16a-5-108, 16a-5-111, 16a-5-201, 16a-5-203, 16a-5-301, 16a-6-104, 16a-6-105, 16a-6-106, 16a-6-108, 16a-6-109, 16a-6-110, 16a-6-111, 16a-6-112, 16a-6-113, 16a-6-115, 16a-6-201, 16a-6-202, 16a-6-203, 16a-6-401, 16a-6-403 and 40-1209 and repealing the existing sections; also repealing K.S.A. 16a-1-303, 16a-2-101, 16a-2-102, 16a-2-303a, 16a-2-307, 16a-3-101, 16a-3-102, 16a-3-203a, 16a-3-207, 16a-3-308a, 16a-4-101, 16a-4-103, 16a-5-101, 16a-5-102, 16a-5-110, 16a-5-112, 16a-6-101, 16a-6-102, 16a-6-117, 16a-6-402, 16a-6-404, 16a-6-405, 16a-6-406, 16a-6-407, 16a-6-408, 16a-6-409, 16a-6-410, 16a-6-414, 16a-9-101 and 16a-9-102.

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

New Section 1. (a) Calendar days shall be used in computing any period of time. The day of the act, event or default from which the designated period of time begins to run shall not be included in such computation. Saturdays, Sundays and legal holidays shall be included in such computation. If the last day of the period so computed is a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday or a legal holiday. "Legal holiday" shall include any day designated as a holiday by the federal reserve bank.

(b) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 2. (a) Any writing or signature required by this act may be provided or executed in an electronic form under K.S.A. 16-1601 et seq., and amendments thereto.

(b) If the consumer agrees in writing to the use of electronic methods instead of United States mail, any requirement under this act to mail a

document may be satisfied by sending the document by electronic methods. When a document is sent by electronic methods, the time of sending and receipt is defined by K.S.A. 16-1615, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 3. (a) Sections 3 through 14, and amendments thereto, shall apply only to covered transactions, as defined in K.S.A. 9-2201, and amendments thereto.

(b) K.S.A. 9-2203 through 9-2209, and amendments thereto, shall apply to licensed mortgage companies, as defined in K.S.A. 9-2201, and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 4. (a) A mortgage company shall not make a covered transaction with an interest in land as security with an amount financed of $5,000 or less in which the annual percentage rate of the loan exceeds the code mortgage rate. A security interest taken in violation of this section shall be void.

(b) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 5. (a) A consumer shall not waive or agree to forego rights or benefits under sections 3 through 14, and amendments thereto, relating to covered transactions except as follows:

(1) The following may be settled by agreement if disputed in good faith. Any claim:

(A) By a consumer against a mortgage company for any violation of sections 3 through 14, and amendments thereto, including for a civil penalty; or

(B) against a consumer for default or for breach of a duty imposed by sections 3 through 14, and amendments thereto.

(2) A claim against a consumer shall be settled for less value than the amount claimed.

(3) A settlement in which the consumer waives or agrees to forego rights or benefits under sections 3 through 14, and amendments thereto, is invalid if the court, as a matter of law, finds the settlement to have been unconscionable at the time it was made. The competence of the consumer, any deception or coercion practiced upon the consumer, the nature and extent of the legal advice received by the consumer and the value of the consideration are relevant to the issue of unconscionability.

(b) A consumer may not authorize any person to confess judgment on a claim arising out of a covered transaction. An authorization in violation of this section shall be void.

(c) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 6. (a) Except as otherwise provided in sections 3 through 14, and amendments thereto, if a mortgage company has violated any provision of sections 3 through 14, and amendments thereto, relating to covered transactions, the consumer shall have a cause of action to recover from the mortgage company or person liable to the consumer actual damages and except for a class action, a penalty in an amount determined by the court not less than $750 but not more than $7,500.

(b) An action under this section based on closed-end covered transaction violations shall be brought within one year of the last scheduled payment due date stated in the agreement. An action under this section based on open-end covered transaction violations shall be brought within two years from the date of occurrence.

(c) If a person has violated K.S.A. 9-2203(a), and amendments thereto, in originating a covered transaction, such covered transaction shall be void. The consumer shall not be obligated to pay the amount financed or the finance charge and such consumer shall have a right to recover any finance charge paid from either the person violating this act or from the consumer's mortgage servicer.

(d) A consumer shall not be obligated to pay a charge on a covered transaction in excess of that allowed by sections 3 through 14, and amendments thereto. A consumer shall have a right of refund for twice the excess charges from the person who made the excess charge or from the consumer's mortgage servicer. A consumer may request a refund payment check or application to the outstanding obligation. Following a reasonable time after demand, if the request is refused, the consumer may recover twice the excess charge from the person liable or the mortgage company and, except for a class action, an amount determined by the court not less than $750 but not more than $7,500.

(e) A mortgage company shall have no penalty liability as discussed in this section if within 60 days after discovering the error the mortgage company corrects the error through refund or adjustment and notifies the consumer of the error. This waiver shall not apply if an action has already been instituted or the consumer has provided written notice of the violation. If the violation is a prohibited agreement, providing a corrected copy of the writing containing the error shall be sufficient notification and correction.

(f) If the mortgage company establishes, by a preponderance of evidence, that a violation is unintentional or the result of a bona fide error of law or fact notwithstanding the maintenance of procedures reasonably adopted to avoid any such violation or error, no liability is imposed under this section.

(g) A mortgage company who in good faith complies with a written administrative guidance document shall not be subject to any penalties under this section for any act done or omitted in conformity with such written administrative guidance document.

(h) Except as otherwise provided, no violation of the provisions of sections 3 through 14, and amendments thereto, shall impair rights on a debt.

(i) The mortgage company shall reimburse the consumer's reasonable attorney fees and cost of the action if the proceeding finds that the mortgage company has violated any provision of sections 3 through 14, and amendments thereto. Reasonable attorney fees shall be determined by the value of the time expended by the attorney and not by the amount of the recovery on behalf of the consumer.

(j) This section shall not apply to attorneys or collection agencies that did not purchase the mortgage loan.

(k) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 7. (a) The consumer may prepay in full the unpaid balance of a covered transaction at any time without penalty.

(b) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 8. (a) The periodic finance charge for a covered transaction shall not exceed 18% per annum, subject to the limitations on prepaid finance charges set forth in this subsection. This subsection shall not apply to a:

(1) Loan secured by a first mortgage that constitutes a covered transaction by virtue of the loan-to-value ratio that exceeds 100% at the time the loan is made; or

(2) covered transaction where the finance charge is governed by K.S.A. 16-207(e)(4), and amendments thereto.

(b) If a loan secured by a first mortgage constitutes a covered transaction by virtue of the loan-to-value ratio exceeding 100% at the time the loan is made, then the periodic finance charge for the loan shall not exceed that authorized pursuant to K.S.A. 16-207(a), and amendments thereto, but the loan is subject to the limitations on prepaid finance charges set forth in this section. Such prepaid finance charges may be charged in addition to the finance charges permitted under K.S.A. 16-207(a), and amendments thereto.

(c) This section shall not be construed to limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount or otherwise, provided the rate and the amount of the finance charge does not exceed that permitted by this section.

(d) Prepaid finance charges on covered transactions shall be limited to an amount not to exceed 8% of the amount financed, provided that

the aggregate amount of prepaid finance charges payable to the mortgage company or any person related to such company does not exceed 5% of the amount financed. Prepaid finance charges permitted under this subsection shall be in addition to finance charges permitted under subsection (a). Prepaid finance charges permitted under this subsection shall be fully earned when paid and such prepaid finance charges shall be nonrefundable unless the parties agree otherwise in writing.

(e) The finance charge limitations in subsection (a) shall not apply to a covered transaction for which the finance charge is governed pursuant to K.S.A. 16-207(e)(4), and amendments thereto.

(f) If, within 12 months after the date of the original covered transaction, a mortgage company or a person related to such company refinances a covered transaction, with respect to which a prepaid finance charge was payable to the same person then the aggregate amount of prepaid finance charges payable to the mortgage company or any person related to such company with respect to the new covered transaction shall not exceed 5% of the additional amount financed.

(g) For purposes of this section, "additional amount financed" means the difference between:

(1) The amount financed for the new covered transaction, less the amount of all closing costs incurred in connection with the new covered transaction that are not included in the prepaid finance charges for the new covered transaction; and

(2) the unpaid principal balance of the original covered transaction.

(h) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 9. (a) In addition to the finance charge permitted by sections 3 through 14, and amendments thereto, for covered transactions, a mortgage company may contract for and receive the following additional charges for such covered transactions:

(1) Closing costs incurred in connection with the covered transaction that are not included in the prepaid finance charges for the covered transaction;

(2) late fees permitted pursuant to section 10, and amendments thereto;

(3) charges for other benefits, including insurance, conferred on the consumer if the benefits are of value to the consumer, and if:

(A) The charges are reasonable in relation to the benefits;

(B) the benefits are of a type that is not for credit and are excluded as permissible additional charges from the finance charge by rules and regulations adopted by the commissioner; or

(4) a service charge for an insufficient payment method not to exceed $30 subject to the limitations contained in this subsection.

(A) Notice shall be given to a consumer providing an insufficient payment method either by:

(i) United States first class mail addressed to the consumer's last known address; or

(ii) a clear notice of the insufficient payment method charge on the consumer's regular monthly statement.

(B) If the consumer does not pay the amount of the insufficient payment plus the service charge to the payee within 14 days from the giving of notice, the payee may add the service charge to the outstanding balance of such indebtedness of the consumer to draw interest at the contract rate applicable to such indebtedness.

(b) With respect to an open-end covered transaction, a mortgage company may charge the following fees in an amount not to exceed that agreed to by the consumer:

(1) Fees on a monthly or annual basis;

(2) over-limit fees; and

(3) cash advance fees.

(c) The fees permitted under subsection (b) are in addition to any finance charges or any additional charges permitted by sections 3 through 14, and amendments thereto.

(d) A mortgage company may charge a borrower up to $5 per payment when the borrower makes a single installment payment through electronic methods for a covered transaction, including by authorizing the mortgage company, verbally or in writing, to initiate the payment, subject to the following limitations. No charge shall be assessed:

(1) If a late fee is assessed on the same installment; or

(2) where the consumer has agreed in writing to make all scheduled payments through the use of electronic methods.

(e) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 10. (a) The parties to a covered transaction may contract for a late fee on any installment not paid in full within 10 calendar days after its scheduled or deferred due date in an amount not to exceed 5% of the unpaid amount of the installment or $25, whichever is less.

(b) As an alternative to the late fee set forth in subsection (a), the parties to a covered transaction may contract for a late fee not to exceed $10 on any installment not paid in full within 10 calendar days after its scheduled or deferred due date, except that if the scheduled payment amount is $25 or less, the maximum late fee shall be $5.

(c) A late fee may be assessed only once on an installment regardless of the length of time such installment remains in default. A late fee may be collected at the time it is assessed or at any time thereafter.

(d) No late fee may be assessed when such a fee or charge is attrib-

utable solely to the failure of the consumer to pay a late fee on an earlier installment and the payment is otherwise a periodic payment received on the due date or within 10 calendar days after its scheduled or deferred installment due date.

(e) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 11. (a) A covered transaction shall not provide for the negative amortization of principal or a balloon payment when the loan-to-value ratio at the time such covered transaction was made exceeds 100% or when the annual percentage rate of the loan exceeds the code mortgage rate unless such covered transaction is open-end, incurred to acquire or construct the consumer's principal residence or a reverse mortgage.

(b) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 12. (a) The provisions of this section shall not apply to a mortgage company that is exempt pursuant to K.S.A. 9-2202(a), and amendments thereto.

(b) Before making a covered transaction, a mortgage company shall obtain the appraised value of the real estate to be encumbered. If, based upon the appraisal, the loan-to-value ratio of the covered transaction exceeds 100%, then the mortgage company shall deliver to the consumer not less than three days before the loan is made a:

(1) Free copy of the appraisal; and

(2) written notice regarding high loan-to-value mortgages and the availability of consumer credit counseling.

(c) If within three days after receiving the notice, the consumer elects not to enter into the covered transaction, then the mortgage company shall promptly refund to the consumer any application fees or other amounts paid by the consumer to such mortgage company except for the following:

(1) Bona fide out-of-pocket costs incurred before the consumer elected not to enter into the covered transaction, provided that such costs were paid or are payable to unrelated persons; and

(2) a bona fide appraisal fee paid or payable to the mortgage company or a related person.

(d) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 13. (a) An agreement of the parties to a covered transaction with respect to default on the part of the consumer shall be enforceable only to the extent that the:

(1) Consumer fails to make a payment as required by agreement; or

(2) (A) prospect of payment, performance or realization of collateral is significantly impaired.

(B) For purposes of this paragraph, the burden of establishing the prospect of significant impairment shall be on the mortgage company.

(b) The provisions of this section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 14. (a) After a consumer has been in default for 10 days for failure to make a required payment in a covered transaction payable in installments, a mortgage company may give the consumer the notice described in this section.

(1) A mortgage company provides notice to the consumer under this section when the mortgage company delivers the notice to the consumer or delivers or mails the notice to the consumer's residence.

(2) The notice shall be in writing and shall conspicuously state:

(A) The name, address and telephone number of the mortgage company to which payment is to be made;

(B) a brief description of the covered transaction;

(C) the consumer's right to cure the default;

(D) the amount of payment and date by which payment must be made to cure the default; and

(E) the consumer's possible liability for the reasonable costs of collection including, but not limited to, court costs, either attorney fees or collection agency fees, and any other information required by the commissioner as set forth by rules and regulations or by administrative interpretation.

(b) With respect to a covered transaction payable in installments, after a default consisting only of the consumer's failure to make a required payment, a mortgage company may neither accelerate maturity of the unpaid balance of the obligation or take possession of collateral as a result of such default until 20 days after a notice of the consumer's right to cure is given. Within 20 days after the notice is given, the consumer may cure all defaults resulting from a failure to make the required payment by tendering the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid late fees. Such cure restores the consumer to the consumer's rights under the agreement as though the defaults had not occurred.

(c) With respect to defaults on the same obligation after a mortgage company has once given a notice of the consumer's right to cure, this section shall confer on the consumer no right to cure and imposes no limitation on the mortgage company's right to proceed against the consumer or the collateral.

(d) Unless the consumer voluntarily surrenders the collateral to the mortgage company, the mortgage company may take possession of the collateral without judicial process only if possession can be taken without entry into a dwelling and without the use of force or other breach of the peace.

(e) Nothing in this section shall be construed to prohibit a consumer from voluntarily surrendering the collateral of the covered transaction and shall not prohibit the mortgage company from thereafter enforcing the mortgage company's security interest in the collateral at any time after surrender.

(f) This section shall be a part of and supplemental to the Kansas mortgage business act.

New Sec. 15. (1) The following shall be exempt from the supervised loan licensing requirements of this act:

(a) A supervised financial organization;

(b) the federal deposit insurance corporation acting in its corporate capacity or as receiver; or

(c) an attorney who is forwarded contracts for collection.

(2) This section shall be a part of and supplemental to the uniform consumer credit code.

New Sec. 16. (1) Any writing or signature required by this act may be provided or executed using an electronic format pursuant to K.S.A. 16-1601 et seq., and amendments thereto.

(2) If a consumer agrees in writing to the use of an electronic format instead of United States mail to send a document, any requirement under this act to use United States mail to send a document may be satisfied by sending the document by such electronic format. When a document is sent using an electronic format, the time of sending and receipt is defined pursuant to K.S.A. 16-1615, and amendments thereto.

(3) This section shall be a part of and supplemental to the uniform consumer credit code.

Sec. 17. K.S.A. 9-2201 is hereby amended to read as follows: 9-2201. As used in this act:

(a) *"Act" means the Kansas mortgage business act.*

(b) "Amount financed" means the net amount of credit provided to the consumer or on the consumer's behalf. The amount financed shall be calculated as provided in rules and regulations adopted by the commissioner pursuant to K.S.A. 9-2209, and amendments thereto.

(c) "Annual percentage rate" shall have the same meaning, be interpreted in the same manner and be calculated using the same methodology as prescribed by 15 U.S.C. § 1606.

(d) "Appraised value" means, with respect to any real estate at any time:

(1) The total appraised value of the real estate, as reflected in the most recent records of the tax assessor of the county in which the real estate is located;

(2) the fair market value of the real estate, as reflected in a written appraisal of the real estate performed by a Kansas licensed or certified appraiser within the past 12 months; or

(3) in the case of a nonpurchase-money real estate transaction, the estimated market value as determined through a method acceptable to the commissioner. In determining the acceptability of the method, the commissioner shall consider the reliability and impartiality of the method under the circumstances. The commissioner may consider industry standards or customs. A method shall not be acceptable if the resulting value is predetermined or when the fee to be paid to the method provider is contingent upon the property valuation reached or upon the consequences resulting from the property valuation reached.

(e) "Balloon payment" means any required payment that is more than twice as large as the average of all earlier scheduled payments.

(f) "Branch office" means a place of business, other than a principal place of business, where the mortgage company maintains a physical location for the purpose of conducting mortgage business with the public.

(g) "Closed-end covered transaction" means the same as in 12 C.F.R. 1026.2(a)(10).

(h) "Closing costs" means:

(1) The actual fees paid to a public official or agency of the state or federal government for filing, recording or releasing any instrument relating to the debt; and

(2) bona fide and reasonable expenses incurred by the mortgage company in connection with the making, closing, disbursing, extending, readjusting or renewing the debt that are payable to third parties not related to the mortgage company. Reasonable fees for an appraisal made by the mortgage company or related party are permissible.

(i) (1) "Code mortgage rate" means the greater of:

(A) 12%; or

(B) the sum of:

(i) The required net yield published by the federal national mortgage association for 60-day mandatory delivery whole-loan commitments for 30-year fixed-rate mortgages with actual remittance on the first day for which the required net yield was published in the previous month; and

(ii) 5%.

(2) If the reference rate referred to in clause (i)(1)(B)(i) is discontinued, becomes impractical to use, or is otherwise not readily ascertainable for any reason, the commissioner may designate a comparable replacement reference rate and, upon publishing notice of the same, such replacement reference rate shall become the reference rate referred to in clause (i)(1)(B)(i). The secretary of state shall publish notice of the code mortgage rate not later than the second issue of the Kansas register published each month.

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

(k) "Consumer" means an individual to whom credit is offered or granted under this act.

(l) "Covered transaction" means a mortgage loan that:

(1) Is a subordinate mortgage;

(2) has a loan-to-value ratio at the time when made that exceeds 100%, except for any loan guaranteed by a federal government agency of the United States; or

(3) in the case of section 11, and amendments thereto, the annual percentage rate of the loan exceeds the code mortgage rate.

(m) "Finance charge" means all charges payable directly or indirectly by the consumer and imposed directly or indirectly by the mortgage company as an incident to or as a condition of the extension of credit. The finance charge shall be calculated as provided in rules and regulations adopted by the commissioner pursuant to K.S.A. 9-2209, and amendments thereto.

~~(c)~~*(n)* "Individual" means a human being.

(o) "Insufficient payment method" means any instrument as defined in K.S.A. 84-3-104, and amendments thereto, drawn on any financial institution for the payment of money and delivered in payment, in whole or in part, of preexisting indebtedness of the drawer or maker, which is refused payment by the drawee because the drawer or maker does not have sufficient funds in or credits with the drawee to pay the amount of the instrument upon presentation.

(p) "Installment" means a periodic payment required or permitted by agreement in connection with a covered transaction.

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

(r) "Licensed mortgage company" means a mortgage company that has been licensed as required by this act.

~~(e)~~*(s)* "Licensee" means a person who is licensed by the commissioner as a mortgage company.

~~(f)~~*(t)* "Loan originator" means an individual:

(1) Who engages in mortgage business on behalf of a single mortgage company;

(2) whose conduct of mortgage business is the responsibility of the licensee;

(3) who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain or in the expectation of compensation or gain; and

(4) whose job responsibilities include contact with borrowers during the loan origination process, which can include soliciting, negotiating, acquiring, arranging or making mortgage loans for others, obtaining personal or financial information, assisting with the preparation of mortgage loan

applications or other documents, quoting loan rates or terms or providing required disclosures. It does not include any individual engaged solely as a loan processor or underwriter.

~~(g)~~*(u)* "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction and subject to the supervision and instruction of a person registered or exempt from registration under this act.

(1) For purposes of this subsection, the term "clerical or support duties" may include subsequent to the receipt of a mortgage loan application:

(A) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(B) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(2) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a loan originator.

(v) "Loan-to-value ratio" means a fraction expressed as a percentage at any time:

(1) The numerator of which is the aggregate unpaid principal balance of all loans secured by a mortgage; and

(2) the denominator of which is the appraised value of the real estate.

~~(h)~~*(w)* "Mortgage business" means engaging in, or holding out to the public as willing to engage in, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, the business of making, originating, servicing, soliciting, placing, negotiating, acquiring, selling, arranging for others, or holding the rights to or offering to solicit, place, negotiate, acquire, sell or arrange for others, mortgage loans in the primary market.

~~(i)~~*(x)* "Mortgage company" means a person engaged in mortgage business.

~~(j)~~*(y)* "Mortgage loan" means a loan or agreement to extend credit made to one or more ~~individuals~~ *persons* which is secured by a first or subordinate mortgage, deed of trust, contract for deed or other similar instrument or document representing a security interest or lien, except as provided for in K.S.A. 60-1101 through 60-1110, and amendments thereto, upon any lot intended for residential purposes or a one-to-four family dwelling as defined in 15 U.S.C. § 1602(w), located in this state, occupied

or intended to be occupied for residential purposes by the owner, including the renewal or refinancing of any such loan.

~~(k)~~*(z)* "Mortgage loan application" means the submission of a consumer's financial information, including, but not limited to, the consumer's name, income and social security number, to obtain a credit report, the property address, an estimate of the value of the property and the mortgage loan amount sought for the purpose of obtaining an extension of credit.

~~(l)~~*(aa)* "Mortgage servicer" means any person engaged in mortgage servicing.

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

~~(n)~~*(cc)* "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of mortgage loan originators.

~~(o)~~*(dd)* "Not-for-profit" means a business entity that is granted tax exempt status by the internal revenue service.

(ee) "Open-end covered transaction" means a covered transaction in which a mortgage company:

(1) Reasonably contemplates repeated transactions;

(2) may impose a finance charge from time to time on an outstanding unpaid balance; and

(3) extends an amount of credit to the consumer during the term of the mortgage loan, up to any set limit, that is generally made available to the extent that any outstanding balance is repaid.

~~(p)~~*(ff)* "Person" means any individual, sole proprietorship, corporation, partnership, trust, association, joint venture, pool syndicate, unincorporated organization or other form of entity, however organized.

(gg) "Prepaid finance charge" means any finance charge paid separately before or at consummation of a transaction or withheld from the proceeds of the credit at any time.

(hh) "Principal" of a mortgage loan means the total of the amount financed and the prepaid finance charges, except that prepaid finance charges are not added to the amount financed to the extent such prepaid finance charges are paid separately by the consumer.

~~(q)~~*(ii)* "Primary market" means the market wherein mortgage business is conducted including activities conducted by any person who assumes or accepts any mortgage business responsibilities of the original parties to the transaction.

~~(r)~~*(jj)* "Principal place of business" means a place of business where mortgage business is conducted, which has been designated by a licensee as the primary headquarters from which all mortgage business and administrative activities are managed and directed.

~~(s)~~*(kk)* "Promotional items" means pens, pencils, hats and other such novelty items.

~~(t)~~*(ll)* "Registrant" means any individual who holds a valid registration to conduct mortgage business in this state as a loan originator *on behalf of a licensed mortgage company*.

(mm) "Related" with respect to a person means:

(1) A person directly or indirectly controlling, controlled by or under common control of another person;

(2) an officer or director employed by the person performing similar functions with another person;

(3) a relative by blood, adoption or marriage of a person within the fourth degree of relationship; or

(4) an individual who shares the same home with such person.

~~(u)~~*(nn)* "Remote location" means a location other than the principal place of business or a branch office where a licensed mortgage company's employee or independent contractor is authorized by such company to engage in mortgage business. A remote location is not considered a branch office.

~~(v)~~*(oo)* "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 18. K.S.A. 9-2202 is hereby amended to read as follows: 9-2202. The following are exempt from the licensing requirements of this act:

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

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

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

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

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

(f) business entities with no employees when a related, licensed mortgage company acts as a proxy for the entity by conducting all mortgage business on behalf of the entity and by including all such mortgage business in the proxy's reports to the commissioner, but the entity and the proxy are jointly and severally liable for violations of this act by the proxy.

Sec. 19. K.S.A. 9-2203 is hereby amended to read as follows: 9-2203. (a) Mortgage business shall only be conducted in this state by *entities that are exempt from licensure pursuant to K.S.A. 9-2202, and amendments thereto, or* a licensed mortgage company. A licensee shall be responsible for all mortgage business conducted on such licensee's behalf by any person, including loan originators, employees or independent contractors.

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

(c) A registrant shall only engage in mortgage business on behalf of one licensed mortgage company.

(d) Mortgage business may be conducted at a remote location, if:

(1) The licensed mortgage company's employees or independent contractors do not meet with the public at a personal residence;

(2) no physical business records are maintained at the remote location;

(3) the licensed mortgage company has written policies and procedures for working at a remote location and such company supervises and enforces such policies and procedures;

(4) the licensed mortgage company maintains the computer system and customer information in accordance with the company's information technology security plan and all state and federal laws;

(5) any device used to engage in mortgage business has appropriate security, encryption and device management controls to ensure the security and confidentiality of customer information as required by rules and regulations adopted by the commissioner;

(6) the licensed mortgage company's employees or independent contractors take reasonable precautions to protect confidential information in accordance with state and federal laws; and

(7) the licensed mortgage company annually reviews and certifies that the employees or independent contractors engaged in mortgage business at remote locations meet the requirements of this section. Upon request, a licensee shall provide written documentation of such licensee's review to the commissioner.

(e) Nothing under this act shall require a licensee to obtain any other license under any other act for the sole purpose of conducting nondepository mortgage business.

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

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

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

Sec. 20. K.S.A. 9-2208 is hereby amended to read as follows: 9-2208. (a) Each licensee shall make available evidence of licensure in a way that reasonably assures recognition by consumers and members of the general public.

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

(1) The time of entering into any contract with a consumer for the provision of services for a mortgage loan;

(2) the time of receiving any compensation or promise of compensation from or on behalf of a consumer for a mortgage loan; or

(3) 15 days after accepting a transfer of mortgage servicing.

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

(d) No solicitation or advertisement shall contain false, misleading or deceptive information, or indicate or imply that the interest rates or

charges stated are "recommended," "approved," "set" or "established" by the state of Kansas.

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

Sec. 21. K.S.A. 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 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 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 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 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 *registration* 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; and

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

(f) The grant of powers to the commissioner in this article does not affect remedies available to consumers under K.S.A. 9-2201 et seq., and amendments thereto, or under other principles of law or equity.

Sec. 22. K.S.A. 9-2212 is hereby amended to read as follows: 9-2212. No person required to be licensed or registered under this act shall directly or indirectly:

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

(b) without the prior written approval of the commissioner employ any person who has:

(1) Had a license or registration denied, revoked, suspended or refused renewal; or

(2) been convicted of any crime involving fraud, dishonesty or deceit;

(c) delay closing of a mortgage loan for the purpose of increasing interest, costs, fees or charges payable by the borrower;

(d) misrepresent the material facts or make false promises intended to influence, persuade or induce an applicant for a mortgage loan or mortgagee to take a mortgage loan or cause or contribute to misrepre-

sentation by any person acting on behalf of the person required to be licensed or registered;

(e) misrepresent to or conceal from an applicant for a mortgage loan a mortgagor or a lender, material facts, terms or conditions of a transaction to which the person required to be licensed or registered is a party;

(f) engage in any transaction, practice or business conduct that is not in good faith~~,~~ or that operates a fraud upon any person in connection with conducting mortgage business;

(g) receive compensation for rendering mortgage business services where the licensee or registrant has otherwise acted as a real estate broker or agent in connection with the sale of the real estate which secures the mortgage transaction unless the person required to be licensed or registered has provided written disclosure to the person from whom compensation is collected that the person is receiving compensation both for mortgage business services and for real estate broker or agent services;

(h) engage in any fraudulent residential mortgage brokerage or underwriting practices;

(i) advertise, display, distribute, broadcast or televise~~,~~ or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for a mortgage loan;

(j) *fail to disburse the proceeds of a mortgage loan upon the satisfaction of all conditions to the disbursement and the expiration of all applicable rescission, cooling-off or other waiting periods required by law, unless the parties otherwise agree in writing;*

(k) record a mortgage if moneys are not available for the immediate disbursal to the mortgagor unless, before that recording, the person required to be licensed or registered informs the mortgagor in writing of a definite date by which payment shall be made and obtains the mortgagor's written permission for the delay;

~~(k)~~*(l)* transfer, assign or attempt to transfer or assign, a license or registration to any other person, or assist or aide and abet any person who does not hold a valid license or registration under this act in engaging in the conduct of mortgage business *who is not properly licensed or registered, unless such person is exempt under K.S.A. 9-2202, and amendments thereto*;

~~(l)~~*(m)* solicit or enter into a contract with a borrower that provides in substance that the person required to be licensed or registered may earn a fee or commission through best efforts to obtain a loan even though no loan is actually obtained for the borrower;

~~(m)~~*(n)* solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;

~~(n)~~*(o)* make any payment, threat or promise, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat or promise, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property or engage in any activity that would constitute a violation of K.S.A. 58-2344, and amendments thereto; or

~~(o)~~*(p)* fail to comply with this act or rules and regulations promulgated under this act or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this act.

Sec. 23. K.S.A. 9-2216 is hereby amended to read as follows: 9-2216. (a) A licensee shall keep copies of all documents or correspondence received or prepared by the licensee or registrant in connection with a loan or loan application and those records and documents required by the commissioner by rules and regulations adopted pursuant to K.S.A. 9-2209, and amendments thereto, for such time frames as are specified in the rules and regulations. If the loan is not serviced by a licensee, the retention period commences on the date the loan is closed or, if the loan is not closed, the date of the loan application. If the loan is serviced by a licensee, the retention period commences on the date the loan is paid in full or the date the licensee ceases to service the loan.

(b) All books, records and any other documents held by the licensee shall be made available for examination and inspection by the commissioner or the commissioner's designee. Certified copies of all records not kept within this state shall be delivered to the commissioner within three business days of the date such documents are requested.

(c) Each licensee shall maintain the following information:

(1) The name, address and telephone number of each loan applicant;

(2) the type of loan applied for and the date of the application; and

(3) the disposition of each loan application, including the date of loan funding, loan denial, withdrawal ~~and~~, name of lender if applicable ~~and~~, name of loan originator and any compensation or other fees received by the loan originator.

(d) Each licensee shall establish, maintain and enforce written policies and procedures regarding security of records which are reasonably designed to prevent the misuse of a consumer's personal or financial information.

(e) Before ceasing to conduct or discontinuing business, a licensee shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this act and applicable regulations for the remainder of each period specified.

(f) Any records required to be retained may be maintained and preserved by noneraseable, nonalterable electronic imaging or by photograph

on film. If the records are produced or reproduced by photographic film, electronic imaging or computer storage medium the licensee shall meet the following criteria:

(1) Arrange the records and index the films, electronic image or computer storage media to permit immediate location of any particular record;

(2) be ready at all times to promptly provide a facsimile enlargement of film, a computer printout or a copy of the electronic images or computer storage medium that the commissioner may request; and

(3) with respect to electronic images and records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records in order to reasonably safeguard these records from loss, alteration or destruction.

(g) No person required to be licensed or registered under this act shall:

(1) Alter, destroy, shred, mutilate, conceal, cover up or falsify any record with the intent to impede, obstruct or influence any investigation by the commissioner or the commissioner's designee; or

(2) alter, destroy, shred, mutilate or conceal a record with the intent to impair the object's integrity or availability for use in a proceeding before the commissioner or a proceeding brought by the commissioner.

Sec. 24. K.S.A. 9-2216a is hereby amended to read as follows: 9-2216a. (a) Each licensee shall annually, on or before April 1, file a written report with the commissioner containing the information that the commissioner may reasonably require concerning the licensee's business and operations during the preceding calendar year. The report shall be made in the form prescribed by the commissioner, which may include reports filed with the nationwide mortgage licensing system and registry. Any licensee who fails to file the report required by this section with the commissioner by April 1 shall be subject to a late penalty of $100 for each day after April 1 the report is delinquent, but in no event shall the aggregate of late penalties exceed $5,000. The commissioner may relieve any licensee from the payment of any penalty, in whole or in part, for good cause. *The commissioner may apply any funds received from late penalties under this section to a consumer education fund, to be expended for such purpose as directed by the commissioner.* The filing of the annual written report required under this section shall satisfy any other reports required of a licensee under this act.

(b) Information contained in the annual report shall be confidential and may be published only in composite form. *The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2030, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.*

Sec. 25. K.S.A. 9-2220 is hereby amended to read as follows: 9-2220. (a) The provisions of K.S.A. 9-2201 ~~through 9-2220~~ *et seq.*, and amendments thereto, and ~~K.S.A. 9-2216a~~ *sections 1 through 14*, and amendments thereto, shall be known and may be cited as the Kansas mortgage business act.

(b) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Sec. 26. K.S.A. 16-207 is hereby amended to read as follows: 16-207. (a) Subject to the following provision, the parties to any bond, bill, promissory note or other instrument of writing for the payment or forbearance of money may stipulate therein for interest receivable upon the amount of such bond, bill, note or other instrument of writing, at a rate not to exceed 15% per annum unless otherwise specifically authorized by law.

(b) No penalty shall be assessed against any party for prepayment of any home loan evidenced by a note secured by a real estate mortgage where such prepayment is made more than six months after execution of such note.

(c) The lender may collect from the borrower:

(1) The actual fees paid a public official or agency of the state~~,~~ or federal government, for filing, recording or releasing any instrument relating to a loan subject to the provisions of this section; and

(2) reasonable expenses incurred by the lender in connection with the making, closing, disbursing, extending, readjusting or renewing of loans subject to the provisions of this section.

(d) Any person so contracting for a greater rate of interest than that authorized by this section shall forfeit all interest so contracted for in excess of the amount authorized under this section; and in addition thereto shall forfeit a sum of money, to be deducted from the amount due for principal and lawful interest, equal to the amount of interest contracted for in excess of the amount authorized by this section and such amounts may be set up as a defense or counterclaim in any action to enforce the collection of such obligation and the borrower shall also recover a reasonable attorney fee.

(e) ~~The interest rates prescribed in subsection (a) shall not apply to a business or agricultural loan. For the purpose of this section unless a loan is made primarily for personal, family or household purposes, the loan shall be considered a business or agricultural loan. For the purpose of this subsection, a business or agricultural loan shall include credit sales and notes secured by contracts for deed to real estate~~*Subsection (a) shall not apply to:*

(1) A covered transaction subject to the usury provisions of the Kansas mortgage business act, K.S.A. 9-2201 et seq., and amendments thereto;

(2) a consumer credit transaction subject to the usury provisions of the uniform consumer credit code, K.S.A. 16a-1-101 et seq., and amendments thereto;

(3) loans made by a qualified plan, as defined by the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant;

(4) a note secured by a real estate mortgage or a contract for deed to real estate when the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule; or

(5) a business or agricultural transaction. For the purpose of this section, a "business or agricultural transaction" means a loan, including a note secured by a contract for deed to real estate or a credit sale, which is made primarily for purposes other than personal, family or household purposes.

(f) ~~Loans made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant, are not subject to the interest rates prescribed in subsection (a).~~

~~(g) The interest rates prescribed in subsection (a) shall not apply to a note secured by a real estate mortgage or a contract for deed to real estate where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule.~~

~~(h) A first mortgage loan incurred for personal, family or household purposes may be subject to certain provisions of the Kansas uniform consumer credit code, K.S.A. 16a-1-101 to 16a-9-102, and amendments thereto, as follows:~~

~~(1) Certain high loan-to-value first mortgage loans are subject to the provisions of the Kansas uniform consumer credit code, other than its usury provisions. Examples of provisions of the Kansas uniform consumer credit code applicable to high loan-to-value first mortgage loans include, but are not limited to: Limitations on prepaid finance charges; mandatory appraisals; required disclosures; restrictions on balloon payments and negative amortization; limitations on late fees and collection costs; and mandatory default notices and cure rights.~~

~~(2) Certain high interest rate first mortgage loans are subject to certain provisions of the Kansas uniform consumer credit code, including, without limitation, provisions which impose restrictions on balloon payments and negative amortization.~~

~~(3) If the parties to a first mortgage loan agree in writing to make the transaction subject to the Kansas uniform consumer credit code, than* all applicable provisions of the Kansas uniform consumer credit code, including its usury provisions, apply to the loan.~~

~~This subsection is for informational purposes only and does not limit or expand the scope of the Kansas uniform consumer credit code.~~

~~(i) Subsections (b), (c) and (d) do not apply to a first mortgage loan if:~~

~~(1) The parties agree in writing to make the transaction subject to the Kansas uniform consumer credit code, K.S.A. 16a-1-101 to 16a-9-102, and amendments thereto; or~~

~~(2) the loan is a high loan-to-value first mortgage loan subject to any provision of the Kansas uniform consumer credit code.~~

~~In the case of a loan described in paragraphs (1) or (2), the applicable provisions of the Kansas uniform consumer credit code shall govern the loan in lieu of subsections (b), (c) and (d)~~*Subsections (b), (c) and (d) shall not apply to:*

(1) A covered transaction under the Kansas mortgage business act, K.S.A. 9-2201 et seq., and amendments thereto; or

(2) a consumer credit transaction under the uniform consumer credit code, K.S.A. 16a-1-101 et seq., and amendments thereto.

Sec. 27. K.S.A. 16-207d is hereby amended to read as follows: 16-207d. The state bank commissioner~~, consumer credit commissioner, savings and loan commissioner~~ and credit union administrator shall jointly adopt rules and regulations for the purpose of governing loans made primarily for personal, family or household purposes and made under the provisions of ~~subsection (h) of~~ K.S.A. 16-207*(e)(4)*, and ~~any~~ amendments thereto~~, and subsection (8) of K.S.A. 16a-2-401, and any amendments thereto~~. Such rules and regulations shall be published in only one place in the Kansas administrative regulations as directed by the state rules and regulations board.

Sec. 28. K.S.A. 16a-1-101 is hereby amended to read as follows: 16a-1-101. K.S.A. 16a-1-101~~ through 16a-9-102~~ *et seq., and amendments thereto,* shall be known and may be cited as the ~~Kansas~~ *uniform* consumer credit code.

Sec. 29. K.S.A. 16a-1-102 is hereby amended to read as follows: 16a-1-102. (1) K.S.A. 16a-1-101~~ through 16a-9-102~~ *et seq.*, and amendments thereto, shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this act are:

(a) To simplify, clarify and modernize the law governing ~~retail installment sales, consumer credit and consumer loans~~ *consumer credit transactions*;

(b) ~~to provide rate ceilings to assure an adequate supply of credit to consumers;~~

~~(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;~~

~~(d)~~ to protect ~~consumer buyers, lessees, and borrowers~~ *consumers*

against unfair practices ~~by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors~~; *and*

~~(c)~~*(c)* to ~~permit and encourage the development of fair and economically~~ *facilitate* sound consumer credit practices~~; and~~

~~(f) to make uniform the law, including administrative rules and regulations, among the various jurisdictions~~.

(3) A reference to a requirement imposed by K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, includes reference to a ~~related~~ rule and regulation ~~of~~ *adopted by* the administrator ~~adopted~~ pursuant to this act.

Sec. 30. K.S.A. 16a-1-103 is hereby amended to read as follows: 16a-1-103. ~~Unless displaced by the particular provisions of~~ *The uniform consumer credit code,* K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto, takes precedence in consumer credit transactions*, the uniform commercial code and the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy~~,~~ or other validating or invalidating cause supplement its provisions.

Sec. 31. K.S.A. 16a-1-104 is hereby amended to read as follows: 16a-1-104. K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto,* being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be ~~impliedly~~ *implicitly* repealed by subsequent legislation if such construction can reasonably be avoided.

Sec. 32. K.S.A. 16a-1-107 is hereby amended to read as follows: 16a-1-107. (1) Except as otherwise provided in K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto*, a consumer may not waive or agree to forego rights or benefits under ~~such sections of~~ this act.

(2) A claim by a consumer against a creditor for ~~an excess charge, other~~ *any* violation of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto*, or civil penalty~~, or~~ a claim against a consumer for default or breach of a duty imposed by ~~such sections of~~ this act, if disputed in good faith, may be settled by agreement.

(3) A claim~~, whether or not disputed,~~ against a consumer may be settled for less value than the amount claimed.

(4) A settlement in which the consumer waives or agrees to forego rights or benefits under K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto,* is invalid if the court as a matter of law finds the settlement to have been unconscionable at the time it was made. The competence of the consumer, any deception or coercion practiced upon ~~him~~ *the consumer*, the nature and extent of the legal advice received by ~~him~~ *the consumer*, and the value of the consideration are relevant to the issue of unconscionability.

Sec. 33. K.S.A. 16a-1-108 is hereby amended to read as follows: 16a-1-108. (1) K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, prescribes maximum charges for all creditors, except lessors and those excluded ~~(~~ *by* K.S.A. 16a-1-202, and amendments thereto~~)~~, ~~extending~~ *extends* consumer credit including consumer credit sales ~~(,subsection (14) of K.S.A. 16a-1-301, and amendments thereto)~~ and consumer loans ~~(,subsection (17) of K.S.A. 16a-1-301, and amendments thereto)~~, and displaces existing limitations on the powers of those creditors based on maximum charges.

(2) With respect to sellers of goods or services~~, small loan companies~~, licensed lenders, consumer and sales finance companies, industrial banks ~~and~~, loan companies, ~~and~~ commercial banks and trust companies, this act displaces existing limitations on their powers based solely on amount or duration of credit.

(3) Except as provided in subsection (1) and ~~in the article on effective date and repealer (article 9),~~ K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, does not displace limitations on powers of credit unions, savings banks, savings and loan associations~~,~~ or other thrift institutions ~~whether organized for the profit of shareholders or as mutual organizations~~.

(4) Except as provided in ~~subsections (1) and (2) and in the article on effective date and repealer (article 9),~~ K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, does not displace:

(a) Limitations on powers of supervised financial organizations ~~(subsection (44) of K.S.A. 16a-1-301, and amendments thereto)~~ with respect to the amount of a loan to a ~~single~~ borrower~~, the ratio of a loan to the value of collateral, the duration of a loan secured by an interest in land,~~ or other similar restrictions designed to protect deposits~~,~~*;* or

(b) limitations on powers an organization is authorized to exercise under the laws of this state or the United States.

Sec. 34. K.S.A. 16a-1-109 is hereby amended to read as follows: 16a-1-109. The parties to a sale, lease~~,~~ or loan or modification thereof~~, which~~ *that* is not a consumer credit transaction may agree in a writing signed by the parties that the transaction is subject to the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102 applying to consumer credit transactions~~ *et seq., and amendments thereto*. If the parties so agree, the transaction is a consumer credit transaction for the purposes of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto*.

Sec. 35. K.S.A. 16a-1-201 is hereby amended to read as follows: 16a-1-201. (1) Except as otherwise provided in this section, K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, apply to consumer credit transactions made in ~~this state~~ *Kansas*. For purposes of such sections of this act, a consumer credit transaction is made in ~~this state~~ *Kansas* if:

(a) A ~~signed writing~~ *written agreement executed by electronic or physical signature* evidencing the obligation or offer of the consumer is received by the creditor ~~in this state~~ *from a consumer in Kansas*; or

(b) the creditor induces the consumer who is a resident of ~~this state~~ *Kansas* to enter into the transaction by solicitation in ~~this state~~ *Kansas* by any means, including, but not limited to: Mail, telephone, radio, television, *electronic mail, internet* or any other electronic means.

(2) *Except as provided in subsection (5), a consumer credit transaction made in a state outside of Kansas to a person who was not a resident of Kansas when the sale, lease, loan or modification was made is valid and enforceable in Kansas according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.*

(3) Notwithstanding other provisions of this section, except as provided in subsection (5), K.S.A. 16a-1-101 et seq., and amendments thereto, do not apply if the consumer is not a resident of Kansas at the time of a consumer credit transaction and the parties have agreed that the law of the consumer's residence applies.

(4) With respect to consumer credit transactions entered into pursuant to ~~open end~~ *open-end* credit ~~(subsection (31) of K.S.A. 16a-1-301, and amendments thereto)~~, this act ~~applies~~ *shall apply* if the consumer's communication or indication of intention to establish the ~~arrangement~~ *agreement* is received by the creditor ~~in this state~~ *conducting business in Kansas*. If no communication or indication of intention is given by the consumer before the first transaction, this act applies if the creditor's communication notifying the consumer of the privilege of using ~~the arrangement is mailed or personally delivered in this state~~ *open-end credit is provided to the consumer in Kansas*.

~~(3)~~*(5)* The part ~~on~~ *addressing* limitations on creditors' remedies ~~(part 1)~~ of the article on remedies and penalties ~~(article 5)~~ applies to actions or other proceedings brought in this state to enforce rights arising from consumer credit ~~sales, consumer leases, or consumer loans,~~ *transactions* or extortionate extensions of credit, wherever made.

~~(4) A consumer credit transaction made in another state to a person who is a resident of this state at the time of the transaction is valid and enforceable in this state to the extent that it is valid and enforceable under the laws of the state applicable to the transaction, but the following provisions apply as though the transaction occurred in this state:~~

~~(a) A creditor may not collect charges through actions or other proceedings in excess of those permitted by the article on finance charges and related provisions (article 2); and~~

~~(b) a creditor may not enforce rights against the consumer with respect to the provisions of agreements which violate the provisions on limitations on agreements and practices (part 3) and limitations on con-~~

~~sumer's liability (part 4) of the article on regulation of agreements and practices (article 3).~~

~~(5) Except as provided in subsection (3), a consumer credit transaction made in another state to a person who was not a resident of this state when the sale, lease, loan, or modification was made is valid and enforceable in this state according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.~~

(6) For the purposes of K.S.A. 16a-1-101~~ through 16a-9-102~~ *et seq.*, and amendments thereto, the residence of a consumer is the address~~ given~~ *provided* by the consumer as the consumer's residence in any~~ writing~~ *written agreement* signed by the consumer in connection with a *consumer* credit transaction. Until the consumer notifies the creditor of a new or different address, the~~ given~~ address~~ is~~ *provided by the consumer shall be* presumed to be unchanged.

~~(7) Notwithstanding other provisions of this section:~~

~~(a) Except as provided in subsection (3), K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, do not apply if the consumer is not a resident of this state at the time of a credit transaction and the parties have agreed that the law of the consumer's residence applies; and~~

~~(b) K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, apply if the consumer is a resident of this state at the time of a credit transaction and the parties have agreed that the law of the consumer's residence applies.~~

~~(8)~~*(7)* Except as provided in subsection~~ (7)~~ *(3),* the following agreements by a buyer, lessee~~,~~ or debtor are invalid with respect to *a* consumer credit transaction to which K.S.A. 16a-1-101~~ through 16a-9-102~~ *et seq.*, and amendments thereto, apply:

(a) That the law of another state shall apply;

(b) that the consumer consents to the jurisdiction of another state; and

(c) that fixes venue.

~~(9) The following provisions of this act specify the applicable law governing certain cases:~~

~~(a) Applicability (K.S.A. 16a-6-102, and amendments thereto) of the part on powers and functions of administrator (part 1) of the article on administration (article 6); and~~

~~(b) applicability (K.S.A. 16a-6-201, and amendments thereto) of the part on notification and fees (part 2) of the article on administration (article 6).~~

~~(10) With respect to a consumer credit sale or consumer loan to which K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, does not otherwise apply by reason of the foregoing provisions of this section, if, pursuant to a solicitation relating to a consumer credit sale or loan re-~~

~~ceived in this state, a person who is a resident of this state sends a signed writing evidencing the obligation or offer of the person to a creditor in another state, and the person receives the goods or services purchased or the cash proceeds of the loan in this state:~~

~~(a) The creditor may not contract for or receive charges exceeding those permitted by this code, and such charges as do exceed those permitted are excess charges for purposes of subsections (3) and (4) of K.S.A. 16a-5-201 and 16a-6-113, and amendments thereto, and such sections shall apply as though the consumer credit sale or consumer loan were made in this state; and~~

~~(b) the part on powers and functions of administrator (part 1) of the article on administration (article 6) shall apply as though the consumer credit sale or consumer loan were made in this state.~~

Sec. 36. K.S.A. 16a-1-202 is hereby amended to read as follows: 16a-1-202. K.S.A. 16a-1-101 through 16a-6-414 do not apply to*:*

(1) Extensions of credit to government or governmental agencies or instrumentalities;

(2) ~~except as otherwise provided in the article on insurance (article 4),~~ the sale of insurance by an insurer if the insured is not obligated to pay installments of the premium and the insurance may terminate or be cancelled after nonpayment of an installment of the premium*, except as otherwise provided in article 4 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto*;

(3) transactions under public utility or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment;

(4) ~~except with respect to disclosure,~~ pawnbrokers licensed and regulated pursuant to statutes of this state*, except with respect to disclosure*;

(5) transactions covered by the Kansas insurance premium finance company act~~.~~ ~~(~~*,* K.S.A. 40-2601~~ to 40-2613)~~ *et seq., and amendments thereto*.

Sec. 37. K.S.A. 16a-1-301 is hereby amended to read as follows: 16a-1-301. ~~In addition to definitions appearing in subsequent articles,~~*As used* in K.S.A. 16a-1-101~~ through 16a-9-102~~ *et seq.*, and amendments thereto:

(1) "Actuarial method" means the method of allocating payments made on a debt between the principal and the finance charge pursuant to which a payment is applied, assuming no ~~delinquency charges~~ *late fees* or other additional charges are then due, first to the accumulated finance charge and then to the unpaid principal balance. When a finance charge is calculated in accordance with the actuarial method, the contract rate is applied to the unpaid principal balance for the number of days the principal balance is unpaid. At the end of each computational period~~,~~ or

fractional computational period, the unpaid principal balance is increased by the amount of the finance charge earned during that period and is decreased by the total payment, if any, made during the period after the deduction of any ~~delinquency charges~~ *late fees* or other additional charges due during the period.

(2) "Administrator" means the deputy commissioner of the consumer and mortgage lending division appointed by the bank commissioner pursuant to K.S.A. 75-3135, and amendments thereto.

(3) *"Agent" means a person authorized through express or implied authority to act on behalf of a licensee or applicant.*

(4) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance.

~~(4)~~*(5)* "Amount financed" means the net amount of credit provided to the consumer or on the consumer's behalf. The amount financed shall be calculated as provided in rules and regulations adopted by the administrator pursuant to K.S.A. 16a-6-117, and amendments thereto.

~~(5)~~*(6)* "Annual percentage rate" means the ~~finance charge expressed as a yearly rate, as calculated in accordance with the actuarial method. The annual percentage rate shall be calculated as provided in rules and regulations adopted by the administrator pursuant to K.S.A. 16a-6-117, and amendments thereto~~ *same and shall be interpreted in the same manner and be calculated using the same methodology as prescribed in 15 U.S.C. § 1606.*

~~(6) "Appraised value" means, with respect to any real estate at any time:(a) The total appraised value of the real estate, as reflected in the most recent records of the tax assessor of the county in which the real estate is located;(b) the fair market value of the real estate, as reflected in a written appraisal of the real estate performed by a Kansas licensed or certified appraiser within the past 12 months; or(c) in the case of a nonpurchase money real estate transaction, the estimated market value as determined through an automated valuation model acceptable to the administrator. As used in this paragraph (c), "automated valuation model" means an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristics and historical home price appreciations. Automated valuation models must be validated by an independent credit rating agency. An automated valuation model provider shall not accept a property valuation assignment when the assignment itself is contingent upon the automated valuation model provider reporting a predetermined property valuation, or when the fee to be paid to the automated valuation model provider is contingent upon the property valuation reached or upon the consequences resulting from the property valuation assignment.~~

(7) "Applicant" means a person who applies to become licensed pursuant to K.S.A. 16a-2-302, and amendments thereto.

(8) "Assignment" means the act by which one person transfers to another person or causes to vest in that other person, any kind of property or valuable interests and includes any temporary or permanent transfer of servicing rights in the property or valuable interest.

(9) "Balloon payment" means any scheduled payment that is more than twice as large as the average of earlier scheduled payments.

~~(7)~~*(10)* "Billing cycle" means the ~~time interval between periodic billing statement dates~~ *same and shall be interpreted in the same manner as prescribed in 12 C.F.R. 1026.2(a)(4).*

~~(8)~~*(11)* "Cash price" of goods, services~~,~~ or an interest in land means the price at which they are offered for sale by the seller to cash buyers in the ordinary course of business and may include*:*

(a) The cash price of accessories or services related to the sale, such as delivery, installation, alterations, modifications, and improvements~~,~~*;* and

(b) taxes to the extent imposed on a cash sale of the goods, services~~,~~ or interest in land. The cash price stated by the seller to the buyer in a disclosure statement is presumed to be the cash price.

~~(9)~~*(12)* "~~Closed end~~*Closed-end* credit" means ~~a consumer loan or a consumer credit sale which is not incurred pursuant to open end credit~~ *the same and shall be interpreted in the same manner as prescribed in 12 C.F.R. 1026.2(a)(10).*

~~(10)~~*(13)* "Closing costs" with respect to a debt secured by an interest in land includes:

(a) The actual fees paid a public official or agency of the state or federal government, for filing, recording or releasing any instrument relating to the debt; and

(b) bona fide and reasonable expenses incurred by the lender in connection with the making, closing, disbursing, extending, readjusting or renewing the debt which are payable to third parties not related to the lender, except that reasonable fees for an appraisal made by the lender or related party are permissible.

~~(11) "Code mortgage rate" means the greater of:~~

~~(a) 12%; or~~

~~(b) the sum of:~~

~~(i) The yield on 30-year fixed rate conventional home mortgage loans committed for delivery within 61 to 90 days accepted under the federal home loan mortgage corporation's or any successor's daily offerings for sale on the last day on which commitments for such mortgages were received in the previous month; and~~

~~(ii) 5%.~~

~~If the reference rate referred to in subparagraph (i) of paragraph (b) is discontinued, becomes impractical to use, or is otherwise not readily ascertainable for any reason, the administrator may designate a comparable replacement reference rate and, upon publishing notice of the same, such replacement reference rate shall become the reference rate referred to in subparagraph (i) of paragraph (b). The secretary of state shall publish notice of the code mortgage rate not later than the second issue of the Kansas register published each month.~~

~~(12)~~*(14)* "Conspicuous" means a term or clause ~~is conspicuous when it~~ *that* is so written ~~that~~ *so* a reasonable person against whom it is to operate ought to have noticed it. Whether a term or clause is conspicuous or not is for decision by the trier of fact.

~~(13)~~*(15)* "Consumer" means the buyer, lessee~~,~~ or debtor to whom credit is *offered or* granted in a consumer credit transaction.

(16) "Consumer credit filer" means a person who is required to file a notice with the administrator pursuant to K.S.A. 16a-6-201 et seq., and amendments thereto.

(17) "Consumer credit insurance" means insurance, other than insurance on property, by which the satisfaction of debt in whole or in part is a benefit provided, but does not include insurance that:

(a) Is provided in relation to a consumer credit transaction in which a payment is scheduled more than 15 years after the extension of credit;

(b) is issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring consumers of the creditor; or

(c) indemnifies the creditor against loss due to the consumer's default.

~~(14)~~*(18)* "Consumer credit sale" *means*:

(a) Except as provided in paragraph (b), ~~a "consumer credit sale" is~~ a sale of goods~~,~~ *or* services, ~~or an interest in land~~ in which:

(i) Credit is granted either by a seller who regularly engages as a seller in credit transactions of the same kind or pursuant to a credit card other than a lender credit card;

(ii) the buyer is a person other than an organization;

(iii) the goods~~,~~ *or* services~~, or interest in land~~ are purchased primarily for a personal, family or household purpose;

(iv) either the debt is by written agreement payable in more than four installments or a finance charge is made; and

(v) with respect to a sale of goods or services, the amount financed does not exceed ~~$25,000~~ *the threshold amount*.

(b) A "consumer credit sale" does not include:

(i) A sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card; or

(ii) a sale of an interest in land~~, unless the parties agree in writing to make the transaction subject to the Kansas uniform consumer credit code~~.

~~(15)~~*(19)* "Consumer credit transaction" means a consumer credit sale, consumer lease, or consumer loan or a modification thereof including a refinancing, consolidation~~,~~ or deferral.

~~(16)~~*(20)* "Consumer lease" means a lease of goods:

(a) ~~Which~~*That* a lessor regularly engaged in the business of leasing makes to a person, other than an organization, who takes under the lease primarily for a personal, family or household purpose;

(b) in which the amount payable under the lease does not exceed ~~$25,000~~ *the threshold amount*;

(c) ~~which~~*that* is for a term exceeding four months; and

(d) ~~which~~*that* is not made pursuant to a lender credit card.

~~(17)~~*(21)* "Consumer loan":

(a) Except as provided in paragraph (b), a "consumer loan" is a loan made by a person regularly engaged in the business of making loans in which:

(i) The debtor is a person other than an organization;

(ii) the debt is incurred primarily for a personal, family or household purpose;

(iii) either the debt is payable by written agreement in more than four installments or a finance charge is made; and

(iv) ~~either~~ the amount financed does not exceed ~~$25,000 or the debt is secured by an interest in land~~ *the threshold amount*.

(b) Unless the loan is made subject to the ~~Kansas~~ *Uniform* consumer credit code by written agreement, a "consumer loan" does not include:

(i) A loan secured by a ~~first~~ mortgage ~~unless:~~*; or*

~~(A) The loan-to-value ratio of the loan at the time when made exceeds 100%; or~~

~~(B) in the case of subsection (1) of K.S.A. 16a-3-308a, and amendments thereto, the annual percentage rate of the loan exceeds the code mortgage rate; or~~

(ii) a loan made by a qualified plan, as defined in section 401 of the internal revenue code, to an individual participant in such plan or to a member of the family of such individual participant.

~~(18)~~*(22)* "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

~~(19)~~*(23)* "Credit card" means any card~~, plate~~ or other single credit device that may be used from time to time to obtain credit. Since this involves the possibility of repeated use of a single device, checks and similar instruments that can be used only once to obtain a single credit extension are not credit cards.

~~(20)~~*(24)* "Creditor" means a person who regularly ~~extends~~ *engages, directly or indirectly in extending* credit in a consumer credit transaction ~~which is payable by a written agreement in more than four installments~~

~~or for which the payment of a finance charge is or may be required and is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by written agreement~~ *or, except as otherwise provided, an assignee of a creditor's right to payment. The term assignee does not in itself impose on an assignee any obligation of its assignor.* In the case of credit extended pursuant to a credit card, the creditor is the card issuer and not another person honoring the credit card.

(25) "Director" means a member of a licensee's or applicant's board of directors.

~~(21)~~*(26)* "Earnings" means compensation ~~paid or~~ payable to an individual ~~or for such individual's account~~ for personal services rendered or to be rendered by such individual, whether denominated as wages, salary, commission, bonus~~,~~ or otherwise~~,~~ and includes periodic payments pursuant to a pension, retirement~~,~~ or disability program.

~~(22)~~*(27)* "Finance charge" means all charges payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit. The finance charge shall be calculated as provided in rules and regulations adopted by the administrator pursuant to K.S.A. ~~16a-6-117~~ *16a-6-104*, and amendments thereto.

~~(23) "First mortgage" means a first priority mortgage lien or similar real property security interest.~~

~~(24)~~*(28)* "Goods" includes goods not in existence at the time the transaction is entered into and merchandise certificates, but excludes money, chattel paper, documents of title, and instruments.

(29) "Installment" means a periodic payment required or permitted by agreement in connection with a consumer credit transaction.

~~(25)~~*(30)* ~~Except as otherwise provided,~~ "Lender" includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

~~(26)~~*(31)* "Lender credit card" means a credit card issued by a supervised lender.

(32) "License" means the authorization allowing a person to make supervised loans pursuant to the provisions on authority to make supervised loans.

(33) "Licensee" means a person that is licensed by the administrator to engage in supervised loan activity.

(34) "Licensing" includes the administrator's process respecting the grant, denial, revocation, suspension, annulment, withdrawal or amendment of a license.

~~(27) "Loan":~~

(35) (a) *"Loan":* Except as provided in paragraph (b), a "loan" includes:

(i) The creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;

(ii) the creation of debt either pursuant to a lender credit card or by a cash advance to a debtor pursuant to a credit card other than a lender credit card;

(iii) the creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately; and

(iv) the forbearance of debt arising from a loan.

(b) A "loan" does not include the payment or agreement to pay money to a third party for the account of a debtor if the debt of the debtor arises from a sale or lease and results from use of either a credit card issued by a person primarily in the business of selling or leasing goods or services or any other credit card which may be used for the purchase of goods or services and which is not a lender credit card.

~~(28) "Loan-to-value ratio", at any time for any loan secured by an interest in real estate, means a fraction expressed as a percentage:~~

~~(a) The numerator of which is the aggregate unpaid principal balance of all loans secured by a first mortgage or a second mortgage encumbering the real estate at such time; and~~

~~(b) the denominator of which is the appraised value of the real estate.~~

(36) "Member" means, for the following business organizations:

(a) A co-partnership, a limited or general partner;

(b) an association that is a corporation, an owner;

(c) an association that is a member-managed limited liability company, the named managing partner; and

(d) an association that is a limited liability company managed by elected or appointed managers, all elected or appointed managers.

~~(29)~~*(37)* "Merchandise certificate" means a writing *or electronic instrument* issued by a seller not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services.

(38) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of licensed mortgage loan originators and other financial service providers.

(39) "Officer" means a person who participates or has the authority to participate, other than in the capacity of a director, in major policymaking functions of the licensee or applicant, whether or not the person has an official title, including the chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief credit officer, chief compliance officer and every vice president.

~~(30)~~*(40)* "Official fees" means:

(a) ~~Fees and charges~~*Taxes and fees* prescribed by law ~~which~~ *that* actually are or will be paid to public officials for determining the existence of or for perfecting, releasing~~,~~ or satisfying a security interest related to a consumer credit ~~sale, consumer lease, or consumer loan~~ *transaction*; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease~~,~~ or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

~~(31)~~*(41)* "~~Open end~~*Open-end* credit" means an arrangement pursuant to which:

(a) A creditor may permit a consumer, from time to time, to purchase goods or services on credit from the creditor or pursuant to a credit card~~,~~ or to obtain loans from the creditor or pursuant to a credit card;

(b) the unpaid balance of amounts financed and the finance and other appropriate charges are debited to an account;

(c) the finance charge, if made, is computed on the outstanding unpaid balances of the consumer's account from time to time; and

(d) the consumer has the privilege of paying the balances in installments.

~~(32)~~*(42)* "Organization" means a corporation, limited liability company, government or governmental subdivision or agency, trust, estate, partnership, cooperative ~~or~~, association *or any other legally recognized business entity*.

~~(33)~~*(43)* "Person" includes a natural person or an individual, and an organization.

~~(34)~~*(44)* (a) "Person related to" with respect to an individual means*:*

(i) The spouse of the individual~~,~~*;*

(ii) a brother, brother-in-law, sister, sister-in-law of the individual~~,~~*;*

(iii) an ancestor or lineal descendant of the individual or the individual's spouse~~, and~~*; or*

(iv) any other relative, by blood, adoption or marriage, of the individual or such individual's spouse ~~who shares the same home with the individual~~.

(b) "Person related to" with respect to an organization means*:*

(i) A person directly or indirectly controlling, controlled by or under common control with the organization~~,~~*;*

(ii) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization~~,~~*;*

(iii) the spouse of a person related to the organization~~, and~~*; or*

(iv) a relative by blood, adoption or marriage of a person related to the organization ~~who shares the same home with such person~~.

~~(35)~~*(45)* "Prepaid finance charge" means any finance charge paid separately in cash or by check before or at consummation of a transaction~~,~~ or withheld from the proceeds of the credit at any time. ~~Prepaid finance charges shall be calculated as provided in rules and regulations adopted by the administrator pursuant to K.S.A. 16a-6-117, and amendments thereto.~~

~~(36) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.~~

~~(37)~~*(46)* "Principal" means the total of the amount financed and the prepaid finance charges, except that prepaid finance charges are not added to the amount financed to the extent such prepaid finance charges are paid separately in cash or by check by the consumer. ~~The administrator may adopt rules and regulations regarding the determination or calculation of the principal or the principal balance pursuant to K.S.A. 16a-6-117, and amendments thereto.~~

(47) "Regularly engaged" means a person that extends credit directly or through assignment more than 25 times in any state during the preceding calendar year.

~~(38)~~*(48)* "Sale of goods" includes any agreement in the form of a bailment or lease of goods if the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with such bailee's or lessee's obligations under the agreements.

~~(39) "Sale of an interest in land" includes a lease in which the lessee has an option to purchase the interest and all or a substantial part of the rental or other payments previously made by the lessee are applied to the purchase price.~~

~~(40)~~*(49)* "Sale of services" means furnishing or agreeing to furnish services and includes making arrangements to have services furnished by another.

~~(41) "Second mortgage" means a second or other subordinate priority mortgage lien or similar real property security interest.~~

~~(42)~~*(50)* "Seller"~~. Except as otherwise provided, "seller"~~ includes an assignee of the seller's right to payment but use of the term does not in itself impose on an assignee any obligation of the seller with respect to events occurring before the assignment.

~~(43)~~*(51)* "Services" includes*:*

(a) Work, labor, and other personal services~~,~~*;*

(b) privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like~~,~~*;* and

(c) insurance.

~~(44)~~*(52)* "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

(a) Organized, chartered~~,~~ or holding an authorization certificate under the laws of any state or of the United States which authorize the person to make loans and to receive deposits, including a savings, share, certificate or deposit account; and

(b) subject to supervision by an official or agency of such state or of the United States.

~~(45)~~*(53)* "Supervised lender" means a person authorized to make or take assignments of supervised loans, either under a license issued by the administrator ~~(K.S.A. 16a-2-301 and amendments thereto)~~ or as a supervised financial organization ~~(subsection (44) of K.S.A. 16a-1-301 and amendments thereto)~~.

~~(46)~~*(54)* "Supervised loan" means a consumer loan, including a loan made pursuant to ~~open end~~ *open-end* credit, with respect to which the annual percentage rate exceeds 12%.

(55) "Threshold amount" means an amount equal to at least $69,500 as of July 1, 2024, and adjusted effective January 1 of each subsequent year by any annual percentage increase in the consumer price index for urban wage earners and clerical workers that was in effect on June 1 of the preceding year. Any increase or decrease in the threshold amount shall be rounded up or down to the nearest increment of $100. If the consumer price index for urban wage earners and clerical workers in effect on June 1 does not increase from the consumer price index for urban wage earners and clerical workers in effect on June 1 of the preceding year, the threshold amount effective the following January 1 through December 31 shall not change from the preceding year.

~~(47)~~*(56)* "Written agreement" means an agreement such as a promissory note, contract or lease that is evidence of or relates to the indebtedness. A letter that merely confirms an oral agreement does not constitute a written agreement for purposes of this subsection unless signed by the person against whom enforcement is sought.

~~(48)~~*(57)* "Written administrative interpretation" means any written ~~communication from the consumer credit commissioner which is the~~ official interpretation ~~as so stated in said written communication~~ by the ~~consumer credit commissioner of~~ *administrator regarding* the ~~Kansas~~ uniform consumer credit code and rules and regulations pertaining thereto.

Sec. 38. K.S.A. 16a-2-103 is hereby amended to read as follows: 16a-2-103. (1) The provisions of this section shall apply to all consumer loans and all consumer credit sales.

(2) The finance charge on a consumer loan or consumer credit sale shall be computed in accordance with the actuarial method using either the $^{365}/_{365}$ method or, if the consumer agrees in writing, the $^{360}/_{360}$ method:

(a) The $^{365}/_{365}$ method means a method of calculating the finance charge whereby the contract rate is divided by 365 and the resulting daily rate is multiplied by the outstanding principal amount and the actual number of days in the computational period.

(b) The $^{360}/_{360}$ method means a method of calculating the finance charge whereby the contract rate is divided by 360 and the resulting daily rate is multiplied by the outstanding principal amount and the number of assumed days in the computational period. For the purposes of this subsection, a creditor may assume that a month has 30 days, regardless of the actual number of days in the month.

(c) If the documentation evidencing a consumer credit contract is silent regarding whether the $^{365}/_{365}$ method or the $^{360}/_{360}$ method applies, then the $^{365}/_{365}$ method shall apply.

~~(3) In addition to the methods listed under subsection 2, the computation of finance charges on a consumer loan secured by a first or second lien real estate mortgage may be computed using the following amortization method: The contract rate is divided by 360 and the resulting rate is multiplied by the outstanding principal amount and 30 assumed days between scheduled due dates. For the purposes of this subsection, a creditor shall assume there are 30 days in the computational period, regardless of the actual number of days between due dates.~~

~~(4)~~ The finance charge on a consumer loan or consumer credit sale may not be computed in accordance with the $^{365}/_{360}$ method, whereby the contract rate is divided by 360 and the resulting daily rate is multiplied by the outstanding principal amount and the actual number of days in the computational period.

~~(5)~~*(4)* Creditors may ignore the effect of a leap year in computing the finance charge.

~~(6)~~*(5)* (a) Except for any portion of a loan made pursuant to a lender credit card which does not represent a cash advance, interest or other periodic finance charges on a consumer loan may accrue only on that portion of the principal which has been disbursed to or for the benefit of the consumer.

(b) On a consumer credit sale, interest or other periodic finance charges may accrue only on that portion of the principal which relates to goods~~, services or an interest in land, as the case may be, which has~~ *or services that have* been shipped, delivered, furnished or otherwise made available to or for the benefit of the consumer or ~~has~~ *have* been disbursed to or for the benefit of the consumer.

~~(7) Subsection (2) does not apply to a consumer credit sale the finance~~

~~charge for which is computed in accordance with subsection (5) of K.S.A. 16a-2-201, and amendments thereto.~~

~~(8) Notwithstanding any other provisions of this act, the finance charges on consumer loans or consumer credit sales originating prior to January 1, 1994, which computed such finance charges on a precomputed basis, shall be subject to the conditions, limitations and restrictions contained in the Kansas uniform consumer credit code as in effect on December 31, 1993, as such code relates to precomputed finance charges.~~

~~(9) This section shall be supplemental to and a part of the Kansas uniform consumer credit code.~~

Sec. 39. K.S.A. 16a-2-104 is hereby amended to read as follows: 16a-2-104. (1) A creditor shall credit a payment to the consumer's account on the date of receipt, except when a delay in crediting does not result in a finance charge or other charge.

(2) Notwithstanding subsection (1), if a creditor specifies, in a writing delivered to the consumer, reasonable requirements for the consumer to follow in making payments, but accepts a payment that does not conform to those requirements, then the creditor shall credit the payment within five days after receipt.

~~(3) This section shall be supplemental to and a part of the Kansas uniform consumer credit code.~~

Sec. 40. K.S.A. 16a-2-201 is hereby amended to read as follows: 16a-2-201. (1) This section applies only to a ~~closed end~~ *closed-end* consumer credit sale.

(2) A seller may charge a finance charge at any rate agreed to by the parties, subject, however, to the limitations on prepaid finance charges set forth in subsection (3).

(3) A seller may charge a prepaid finance charge:

(a) ~~For a consumer credit sale secured by a security interest in a manufactured home as defined by 42 U.S.C. § 5402(6), in an amount not to exceed 5% of the amount financed for the sole purpose of reducing the interest rate of the consumer credit sale; or~~

~~(b)~~ For any ~~other~~ consumer credit sale, an amount not to exceed the lesser of 2% of the amount financed or ~~$100~~ *$300*.

~~(c)~~*(b)* A prepaid finance charge permitted under this subsection is in addition to finance charges permitted under subsection (2). A prepaid finance charge permitted under this subsection is fully earned when paid and is nonrefundable, unless the parties agree otherwise in writing.

~~(4) If the sale is precomputed:~~

~~(a) The finance charge may be calculated on the assumption that all scheduled payments will be made when due, and the fact that payments are made either before or after the due date does not affect the amount of finance charge which the creditor may charge or receive; and~~

~~(b) the effect of prepayment is governed by subsection (5).~~

~~(5) Rebate upon prepayment:~~

~~(a) Except as provided for in this section, upon prepayment in full of a precomputed consumer credit transaction, the creditor shall rebate to the consumer an amount not less than the amount of rebate provided in subsection (b), paragraph (1), or redetermine the earned finance charge as provided in subsection (b), paragraph (2), and rebate any other unearned charges including charges for insurance. The rebate for charges for insurance shall be as prescribed by statute, rules and regulations and administrative interpretations by the administrator. If the rebate otherwise required is less than $1, no rebate need be made.~~

~~(b) The amount of rebate and redetermined earned finance charge shall be as follows:~~

~~(1) The amount of rebate shall be determined by applying, according to the actuarial method, the rate of finance charge which was required to be disclosed in the transaction:~~

~~(i) Where no deferral charges have been made in a transaction, to the unpaid balances for the actual time remaining as originally scheduled for the period following prepayment; and~~

~~(ii) where deferral charges have been made in a transaction, to the unpaid balances for the actual time remaining as extended by deferral for the period following prepayment.~~

~~The time remaining for the period following prepayment shall be either the full days following prepayment; or both the full days, counting the date of prepayment, between the prepayment date and the end of the computational period in which the prepayment occurs, and the full computational periods following the date of prepayment to the scheduled due date of the final installment of the transaction.~~

~~(2) The redetermined earned finance charge shall be determined by applying, according to the actuarial method, the rate of finance charge which was required to be disclosed in the transaction to the actual unpaid balances of the amount financed for the actual time the unpaid balances were outstanding as of the date of prepayment. Any delinquency or deferral charges collected before the date of prepayment do not become a part of the total finance charge for purposes of rebating unearned charges.~~

~~(c) Upon prepayment, but not otherwise, of a consumer credit transaction whether or not precomputed, other than a consumer lease, a consumer rental purchase agreement, or a transaction pursuant to open end credit:~~

~~(1) If the prepayment is in full, the creditor may collect or retain a minimum charge not exceeding $5 in a transaction which had an amount financed of $75 or less, or not exceeding $7.50 and in a transaction which had an amount financed of more than $75, if the finance charge earned~~

~~at the time of prepayment is less than the minimum allowed pursuant to this subsection.~~

~~(2) If the prepayment is in part, the creditor may not collect or retain a minimum finance charge.~~

~~(d) For the purposes of this section, the following defined terms apply:~~

~~(1) "Computational period" means the interval between scheduled due dates of installments under the transaction if the intervals are substantially equal or, if the intervals are not substantially equal, one month if the smallest interval between the scheduled due dates of installments under the transaction is one month or more, and otherwise one week.~~

~~(2) The "interval" between specified dates means the interval between them including one or the other but not both of them. If the interval between the date of the transaction and the due date of the first scheduled installment does not exceed one month by more than fifteen days when the computational period is one month, or eleven days when the computational period is one week, the interval may be considered by the creditor as one computational period.~~

~~(e) This section does not preclude the collection or retention by the creditor of delinquency charges.~~

~~(f) If the maturity is accelerated by any reason and judgment is obtained, the consumer is entitled to the same rebate as if payment had been made on the date maturity is accelerated.~~

~~(g) Upon prepayment in full of a precomputed consumer credit transaction by the proceeds of consumer credit insurance, the consumer or the consumer's estate is entitled to the same rebate as though the consumer had prepaid the agreement on the date the proceeds of the insurance are paid to the creditor, but no later than ten business days after satisfactory proof of loss is furnished to the creditor.~~

~~(6) This section does not apply to a sale of an interest in land. Subsection (11) of K.S.A. 16a-2-401, and amendments thereto, governs the limitations on finance charges for a contract for deed to real estate where the parties agree in writing to make the transaction subject to the Kansas uniform consumer credit code.~~

Sec. 41. K.S.A. 16a-2-202 is hereby amended to read as follows: 16a-2-202. (1) *This section shall apply only to open-end consumer credit sales.*

(2) ~~With respect to a consumer credit sale made pursuant to open end credit,~~ A seller may charge a finance charge at any rate agreed to by the parties.

~~(2)~~*(3)* A charge may be made in each billing cycle which is a percentage of an amount no greater than:

(a) The average daily balance of the account, which is the sum of the actual amounts outstanding each day during the billing cycle divided by the number of days in the cycle; *or*

(b) the unpaid balance of the account on the last day of the billing cycle.

~~(3)~~*(4)* If the billing cycle is monthly, the charges may not exceed 1/12 of the annual rate agreed to by the consumer. If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to 30. For purposes of this subsection, a variation of not more than four days from month to month is "the last day of the billing cycle."

~~(4)~~*(5)* For any period in which a finance charge is due, the parties may agree *in writing* on a minimum amount.

~~(5) This section does not apply to a sale of an interest in land. Subsection (11) of K.S.A. 16a-2-401, and amendments thereto, governs the limitations on finance charges for a contract for deed to real estate where the parties agree in writing to make the transaction subject to the Kansas uniformconsumer credit code.~~

Sec. 42. K.S.A. 16a-2-301 is hereby amended to read as follows: 16a-2-301. (1) Unless a person is~~a supervised financial organization; or has first obtained a license from the administrator authorizing such person to make supervised loans; or is the federal deposit insurance corporation acting in its corporate capacity or as receiver~~ *exempt from licensing pursuant to section 15, and amendments thereto*, such person shall not engage in the business of:

(a) Making supervised loans; *or*

(b) taking assignments of and directly or indirectly, including through the use of *supervised loans* servicing contracts or otherwise, *and either:*

(i) Undertaking collection of payments from debtors arising from supervised loans~~, but such person may collect for three months without a license if the person promptly applies for a license and such person's application has not been denied~~; or

~~(c)~~*(ii)* ~~taking assignments of and directly or indirectly, including through the use of servicing contracts or otherwise,~~ enforcing rights against debtors arising from supervised loans~~, but such person may enforce for three months without a license if the person promptly applies for a license and such person's application has not been denied~~.

(2) ~~Residential mortgage loan origination shall only be conducted in this state by an individual who has first been registered with the administrator as a residential mortgage loan originator and maintains a valid unique identifier issued by the nationwide mortgage licensing system and registry if operational at the time of registration.~~

~~(a) Residential mortgage loan origination shall only be conducted at or from a supervised lender and a registrant shall only engage in residential mortgage loan origination on behalf of one supervised lender.~~

~~(b) A supervised lender shall be responsible for all mortgage loan origination conducted on their behalf by residential mortgage loan originators or other employees.~~

~~(3) Nothing in this section shall be construed to require the licensing of an attorney who is forwarded contracts for collection~~*If any person is engaged in the business of subsection (1)(b), such person shall promptly apply for a license and may for three months collect and enforce without such license, provided such person's application has not been denied.*

Sec. 43. K.S.A. 16a-2-302 is hereby amended to read as follows: 16a-2-302. (1) (a) The administrator shall receive and act on all applications for licenses to make supervised loans~~ and all applications for residential mortgage loan originator registrations under this act. Applications shall be filed~~*. Any person required to be licensed pursuant to this act shall submit an application* in the manner prescribed by the administrator~~ and~~ *that* shall contain the information the administrator may require by rule and regulation to make an evaluation of the financial responsibility, character and fitness of the applicant.

(b) Submitted with each application shall be a nonrefundable application fee~~. Application, license and registration fees shall be in such amounts as are established~~ pursuant to ~~subsection (5) of~~ K.S.A. 16a-6-104*(5)*, and amendments thereto. *A license shall become effective as of the date specified in writing by the administrator.* The license year shall be the calendar year *and the license shall expire on December 31 of the year unless the license is renewed pursuant to subsection (1)(d).* Each license shall be~~ nonrefundable~~ *nontransferable* and nonassignable, and shall remain in force until *it has expired, is* surrendered, suspended or revoked.

(c) ~~The administrator shall remit all moneys received under K.S.A. 16a-1-101 to 16a-6-414, inclusive, 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. Of each deposit 10% shall be credited to the state general fund and the balance shall be credited to the bank commissioner 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 administrator or by a person or persons designated by the administrator.~~*The administrator shall consider an application for a license abandoned if the applicant fails to complete the application within 60 days after the administrator provides the applicant with written notice of the incomplete application. An applicant whose application is abandoned under this section may reapply to obtain a license and shall pay the fee set forth in subsection (1) upon such application. If an application is considered abandoned pursuant to K.S.A. 16a-2-302, and amendments*

thereto, an applicant may make a written request for a hearing. The administrator shall conduct a hearing in accordance with the Kansas administrative procedure act.

(d) ~~Every licensee and registrant shall, on or before the first day of January, pay to the administrator the license or registration fee prescribed under this subsection (1) for each license or registration held for the succeeding license year. Failure to pay the fee within the time prescribed shall automatically revoke the license or registration.~~ *A license shall be renewed annually for the subsequent year by filing with the administrator, on or before December 1 of the current year, a renewal application accompanied with the fee prescribed under subsection (1) for each license. Such application shall be filed in the form and manner prescribed by the administrator and shall contain such information that the administrator requires to determine the existence of any material changes from the information contained in the applicant's original license application or prior renewal application. A late fee may be assessed if a renewal application is filed after December 1.*

(e) Each renewal application shall be accompanied by a nonrefundable fee that shall be established by rules and regulations pursuant to K.S.A. 16a-6-104, and amendments thereto.

(f) There is hereby established a reinstatement period. Licensees may submit a complete renewal application through the last day of February each year. If approved, there will be no lapse in license coverage. An application for renewal or reinstatement received after the last day of February shall be treated as an original application and shall be subject to all reporting and fees associated therewith.

(2) No license ~~or registration~~ shall be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and of the members thereof if the applicant is a copartnership or association and of the officers and directors thereof, if the applicant is a corporation, are such as to warrant belief that the ~~business will be operated~~ *applicant or licensee shall operate* honestly and fairly within the purposes of this act. ~~The administrator shall not base a registration denial solely on the applicant's credit score.~~ An applicant meets the minimum standard of financial responsibility for engaging in the business of making supervised loans, ~~under subsection (1) of~~ K.S.A. 16a-2-301*(1)*, and amendments thereto, only if:

(a) The applicant has filed with the administrator a proper surety bond of at least $100,000 which has been approved by the administrator. The bond must provide within its terms that the bond shall not expire for two years after the date of the surrender, revocation or expiration of the subject license, whichever shall first occur. The required surety bond may not be canceled by the licensee without providing the administra-

tor at least 30 days' prior written notice, provided that such cancellation shall not affect the surety's liability for violations of the uniform consumer credit code occurring prior to the effective date of cancellation and principal and surety shall be and remain liable for a period of two years from the date of any action or inaction of the principal that gives rise to a claim under the bond; and

(b) the applicant provides evidence in a form and manner prescribed by the administrator that establishes the applicant will maintain a satisfactory minimum net worth, as determined by the administrator, to engage in credit transactions of the nature proposed by the applicant. Such net worth requirements shall be established by the administrator pursuant to rule and regulation and shall not exceed $500,000 for each applicant or licensee.

(3)*(a)* ~~The administrator may deny any application or renewal for a supervised loan license or a residential mortgage loan originator registration, if the administrator finds:~~

~~(a) There is a refusal to furnish information required by the administrator within a reasonable time as fixed by the administrator; or~~*A licensee shall provide written notice to the administrator within 10 business days of the occurrence of any of the following events:*

(1) The closing or relocation of any place of business;

(2) a change in the licensee's name or legal entity status; or

(3) the addition or loss of any owner, officer, member or director.

(b) ~~any of the factors stated as grounds for denial, revocation or suspension of a license in K.S.A. 16a-2-303 or K.S.A. 16a-2-303a, and amendments thereto~~*The administrator may request additional information concerning any written notice received pursuant to subsection (a) and charge a reasonable fee for any action required by the administrator as a result of such notice and additional information*.

~~(4) Upon written request the applicant is entitled to a hearing on the question of license qualifications if: (a) The administrator has notified the applicant in writing that the application has been denied; or (b) the administrator has not issued a license within 60 days after the application for the license was filed. A request for a hearing may not be made more than 15 days after the administrator has mailed a writing to the applicant notifying the applicant that the application has been denied and stating in substance the administrator's findings supporting denial of the application.~~

~~(5) The administrator shall adopt rules and regulations regarding whether a licensee shall be required to obtain a single license for each place of business or whether a licensee may obtain a master license for all of its places of business, and in so doing the administrator may differentiate between licensees located in this state and licensees located~~

~~elsewhere. Each license shall remain in full force and effect until surrendered, suspended or revoked.~~

~~(6) No licensee shall change the location of any place of business without giving the administrator at least 15 days prior written notice.~~

~~(7)~~*(4)* A licensee may conduct the business of making loans for personal, family or household purposes only at or from any place of business for which the licensee holds a license and not under any other name than that in the license. Loans made pursuant to a lender credit card do not violate this subsection.

(5) All solicitations and published advertisements concerning consumer credit transactions directed at Kansas residents, including those on the internet or by other electronic means, shall contain the name and license number or unique identifier of the licensee on record with the administrator. Each licensee shall maintain a record of all solicitations or advertisements for a period of 36 months. As used in this subsection, "advertising" excludes business cards or promotional items, including, but not limited to, pens, pencils, hats and other such novelty items.

(6) The administrator shall remit all moneys received under K.S.A. 16a-1-101 et seq., 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. Of each such deposit, 10% shall be credited to the state general fund and the balance shall be credited to the bank commissioner 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 administrator or the administrator's designee. Late fees paid under this section may be designated by the administrator for consumer education.

Sec. 44. K.S.A. 16a-2-303 is hereby amended to read as follows: 16a-2-303. (1) The administrator may deny~~,~~ *an application or renewal or* revoke or suspend ~~the~~ *a supervised loan* license ~~of a supervised lender~~ if the administrator finds*, after notice and opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act,* that:

(a) The applicant or licensee has repeatedly or willfully violated the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, or any ~~rule and regulation~~ *rules and regulations*, order or administrative interpretation lawfully made pursuant to ~~such sections of~~ this act;

(b) ~~the applicant or licensee has failed to file and maintain the surety bond or net worth required in K.S.A. 16a-2-302, and amendments thereto~~ *facts or conditions exist that would clearly have justified the administrator in refusing to grant a license had such facts or conditions been known to exist at the time the application for the license was made*;

(c) ~~the applicant or licensee is insolvent;~~

~~(d)~~ the applicant or licensee has filed with the administrator any document or statement falsely representing or omitting a material fact;

~~(e)~~*(d)* the applicant, licensee, members ~~thereof if~~ *of* a copartnership or association~~,~~ or officers and directors ~~thereof if~~ *of* a corporation have been convicted of a felony crime or any crime involving fraud, dishonesty or deceit or the applicant or licensee knowingly or repeatedly contracts with or employs persons to directly engage in lending activities who have been convicted of a felony crime or any crime involving fraud, dishonesty or deceit;

(e) the applicant or licensee has engaged in deceptive business practices;

(f) ~~the applicant or licensee fails to keep and maintain sufficient records to permit an audit satisfactorily disclosing to the administrator the applicant or licensee's compliance with the provision of this act;~~

~~(g)~~ the applicant or licensee has been the subject of any disciplinary action by this or any other state or federal agency;

~~(h)~~*(g)* a final judgment has been entered against the applicant or licensee in a civil action and the administrator finds the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be licensed;

(h) the applicant or licensee has failed to keep and maintain sufficient records to permit an audit satisfactorily disclosing to the administrator the applicant or licensee's compliance with the provisions of this act; or

(i) ~~the applicant or licensee has engaged in deceptive business practices; or~~*the applicant or licensee has failed to file and maintain the surety bond or net worth required in K.S.A. 16a-2-302, and amendments thereto.*

~~(j) facts or conditions exist which would clearly have justified the administrator in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made.~~

(2) Upon written request, the applicant or licensee is entitled to a hearing in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, if the administrator denies an application, fails to issue a new license within 60 days of receipt of a complete application, revokes a license, suspends a license or fails to issue a renewal within 30 days after receipt of a complete application.

~~(2)~~*(3)* Any person holding a license to make supervised loans may surrender the license by notifying the administrator in writing of its surrender, but this surrender shall not affect such person's liability for acts previously committed.

~~(3)~~*(4)* No revocation, suspension~~,~~ or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any debtor.

~~(4)~~*(5)* None of the following actions shall deprive the administrator of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such licensee, 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:

(a) The imposition of an administrative penalty under this section;

(b) the lapse or suspension of any license issued under this act by operation of law;

(c) the licensee's failure to renew any license issued under this act; or

(d) the licensee's voluntary surrender of any license issued under this act.

~~(5)~~*(6)* The administrator may reinstate a license, terminate a suspension~~,~~ or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would have justified the administrator in refusing to grant a license.

Sec. 45. K.S.A. 16a-2-304 is hereby amended to read as follows: 16a-2-304. (1) Every licensee and any assignee or servicer of a consumer credit transaction and every ~~person required to file notification~~ *consumer credit filer* shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator and, in the case of a supervised financial organization its supervisory official or agency, to determine whether the licensee, assignee, servicer or ~~person required to file notification~~ *consumer credit filer* is complying with the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto. The record keeping system of a licensee, assignee, servicer or ~~person required to file notification~~ *consumer credit filer* shall be sufficient if the licensee, assignee, servicer or any ~~person required to file notification~~ *consumer credit filer* makes the required information reasonably available. The records need not be kept in the place of business where supervised loans are made, if the administrator or supervisory official or agency is given free access to the records wherever located. Every licensee and ~~any assignee or servicer of a consumer credit transaction and every person required to file notification~~ *every consumer credit filer* shall provide the administrator with the name, address, telephone number, *email address,* contact person and any other reasonable information regarding the location and availability of current records of a consumer credit transaction. The records pertaining to any loan shall be kept for the minimum time frames established by the administrator pursuant to rules and regulations.

(2) Every licensee and any assignee or servicer of a consumer credit transaction, and every ~~person required to file notification~~ *consumer credit filer* shall establish, maintain and enforce written policies and procedures regarding security of records which are reasonably designed to prevent the misuse of a consumer's personal or financial information.

(3) Before ceasing to conduct or discontinuing business, a licensee, *assignee, servicer* or ~~person required to file notification~~ *consumer credit filer* shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this act and applicable rules and regulations for the remainder of each period specified.

(4) ~~Any~~ *All books,* records *and any other documents* required to be retained may be maintained ~~and preserved by noneraseable, nonalterable electronic imaging or by photograph on film~~ *in a photographic, reproduced or electronic format*. If the records are ~~produced or reproduced by photographic film, electronic imaging or computer storage medium~~ *photographed, reproduced or retained in an electronic format*, the licensee, assignee or ~~person required to file notification~~ *consumer credit filer* shall meet the following criteria:

(a) Arrange the records ~~and index the films, electronic image or computer storage media~~ to permit immediate location of any particular record;

~~(b) be ready at all times to promptly provide a facsimile enlargement of film, a computer printout or a copy of the electronic images or computer storage medium that the administrator may request; and~~

~~(c)~~*(b)* with respect to electronic images and records stored on computer storage medium, maintain procedures for maintenance and preservation of, and access to, records in order to reasonably safeguard these records from loss, alteration or destruction*; and*

(c) all books, records and any other documents shall be made available for examination and inspection by the administrator or the administrator's designee. All records shall be delivered to the administrator within three business days of the date such documents are requested.

(5) *In lieu of retention of the original records, any such photograph or reproduction shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.*

(6) On or before April 15 of each year every licensee shall file with the administrator and, in the case of a supervised financial organization with its supervisory official or agency, a composite annual report in the form prescribed by the administrator relating to all loans made by such licensee. The administrator shall consult with comparable officials in other states for the purpose of making the kinds of information required in annual reports uniform among the states. Information contained in annual reports shall be confidential and may be published only in composite form.

~~(6)~~*(7)* No person required to be ~~licensed or file notification~~ *a licensee or a consumer credit filer or an assignee or servicer of a consumer credit transaction* under this act shall:

~~(a)~~ alter, destroy, shred, mutilate, conceal, cover up or falsify any record with the intent to impede, obstruct or influence any investigation by the administrator or the administrator's designee~~; or~~

~~(b) alter, destroy, shred, mutilate or conceal a record with the intent to impair the object's integrity or availability for use in a proceeding before the administrator or a proceeding brought by the administrator~~ *or any proceeding brought by or before the administrator*.

Sec. 46. K.S.A. 16a-2-308 is hereby amended to read as follows: 16a-2-308. ~~If consumer loans in which the finance charge exceeds twelve percent (12%), not made pursuant to open end credit or lender credit cards issued by a licensed lender, and in which the amount financed is one thousand dollars ($1,000) or less are payable in installments, they shall be scheduled to be payable in substantially equal installments at substantially equal periodic intervals except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and~~

~~(a) over a period of not more than thirty-seven (37) calendar months if the amount financed is more than three hundred dollars ($300), or~~

~~(b) over a period of not more than twenty-five (25) calendar months if the amount financed is three hundred dollars ($300) or less. The debtor's schedule of payments may be extended to a longer repayment period subsequent to the execution of the loan agreement pursuant to K.S.A. 16a-2-502 or 16a-2-503, and amendments thereto. The default of the borrower shall not be considered as having extended the loan beyond the prescribed time limits~~*Supervised loans not made pursuant to open-end credit or lender credit cards issued by a supervised lender and in which the amount financed is $1,000 or less and the principal of which is payable in more than a single payment must be scheduled to be payable in substantially equal installments at equal periodic intervals except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor and over a period of not more than 25 months*.

Sec. 47. K.S.A. 16a-2-309 is hereby amended to read as follows: 16a-2-309. A licensee may conduct the business of making loans under K.S.A. 16a-1-101~~ through 16a-9-102~~ *et seq., and amendments thereto,* within any office, room or place of business in which any other business is solicited or engaged in~~,~~ or in association or conjunction therewith, unless the ~~commissioner shall find, after a hearing,~~ *administrator finds* that the other business is of such nature that such conduct tends to conceal~~ evasion of such portion~~ *a violation* of this act or of the rules and regulations made thereunder and shall order such licensee in writing to desist from such conduct.

Sec. 48. K.S.A. 16a-2-310 is hereby amended to read as follows: 16a-2-310. ~~(1)~~ No person required to be licensed or~~ registered~~ *required to be a consumer credit filer* under this act shall directly or indirectly:

(a) Delay closing of a loan for the purpose of increasing interest, costs, fees or charges payable by the borrower;

(b) misrepresent the material facts or make false promises intended to influence, persuade or induce a consumer to enter into a loan;

(c) misrepresent to or conceal from an applicant for a loan, a ~~mortgagor~~ *guarantor* or a lender, material facts, terms or conditions of a transaction to which the person required to be licensed or ~~registered~~ *required to be a consumer credit filer* is a party;

(d) engage in any transaction, practice or business conduct that is not in good faith or that operates a fraud upon any person in connection with ~~the making of or purchase or sale of any loan~~ *any consumer credit transaction*;

~~(e) receive compensation for making a residential mortgage loan where the licensee or registrant has otherwise acted as a real estate broker or agent in connection with the sale of the real estate which secures the mortgage transaction unless the person required to be licensed or registered has provided written disclosure to the person from whom compensation is collected that the person is receiving compensation both for making the loan and for real estate broker or agent services;~~

~~(f) engage in any fraudulent lending or underwriting practices;~~

~~(g) advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to rates, terms or conditions for a loan;~~

~~(h) record a mortgage if moneys are not available for immediate disbursal to the mortgagor unless, before that recording, the person required to be licensed or registered informs the mortgagor in writing of a definite date by which payment shall be made and obtains the mortgagor's written permission for the delay;~~

~~(i)~~*(e)* transfer, assign or attempt to transfer or assign, a license ~~or registration~~ to any other person~~,~~ or assist or ~~aide~~ *aid* and abet any person who does not hold a valid license ~~or registration~~ under this act in engaging in ~~the~~ conduct ~~of mortgage business~~ *requiring a license*;

~~(j)~~*(f)* solicit or enter into a contract with a borrower that provides in substance that the person required to be licensed or ~~registered~~ *required to be a consumer credit filer* may earn a fee or commission through best efforts to obtain a loan even though no loan is actually obtained for the borrower; *or*

~~(k) solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;~~

~~(l) make any payment, threat or promise to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment, threat or promise~~

~~to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property or engage in any activity that would constitute a violation of K.S.A. 58-2344, and amendments thereto; or~~

~~(m)~~*(g)* fail to comply with the uniform consumer credit code, or rules and regulations promulgated thereunder~~,~~ or fail to comply with any other state or federal law, including the rules and regulations promulgated thereunder, applicable to any business authorized or conducted under the uniform consumer credit code.

~~(2) This section shall be part of and supplemental to the uniform consumer credit code.~~

Sec. 49. K.S.A. 16a-2-401 is hereby amended to read as follows: 16a-2-401. (1) For any consumer loan incurred pursuant to ~~open end~~ *open-end* credit, including, without limitation, a loan pursuant to a lender credit card, a lender may charge a finance charge at any rate agreed to by the parties, subject, however, to the limitations on prepaid finance charges set forth in subsection ~~(6)~~ *(4)*. ~~This subsection does not apply to a consumer loan secured by a first mortgage or a second mortgage.~~

(2) For any consumer loan incurred pursuant to ~~closed end~~ *closed-end* credit, a lender may charge a periodic finance charge, calculated accordingly to the actuarial method, not to exceed~~: (a)~~ 36% per annum ~~on the portion of the unpaid balance which is $860 or less, and (b) 21% per annum on the portion of the unpaid balance which exceeds $860, subject, however to the limitations on prepaid finance charges set forth in subsection (6). This subsection does not apply to a consumer loan secured by a first mortgage or a second mortgage~~.

~~(3) For any consumer loan secured by a second mortgage or a consumer loan secured by an interest in a manufactured home as defined by 42 U.S.C. § 5402(6), a lender may charge a periodic finance charge, calculated according to the actuarial method, not to exceed 18% per annum, subject, however to the limitations on prepaid finance charges set forth in subsection (6). This subsection does not apply if the lender and the consumer agree in writing that the finance charge for the loan is governed by K.S.A. 16-207(b), and amendments thereto.~~

~~(4) If the parties to a consumer loan secured by a first mortgage or a consumer loan secured by an interest in a manufactured home as defined by 42 U.S.C. § 5402(6) agree in writing to make the transaction subject to the uniform consumer credit code, then the periodic finance charge for the loan, calculated according to the actuarial method, may not exceed 18% per annum, subject, however to the limitations on prepaid finance charges set forth in subsection (6).~~

~~(5)~~*(3)* This section does not limit or restrict the manner of calculating the finance charge, whether by way of add-on, discount or otherwise, so

long as the rate and the amount of the finance charge does not exceed that permitted by this section.

~~(6)~~*(4)* Prepaid finance charges on consumer loans are limited ~~as follows:~~

~~(a) For a consumer loan secured by a first mortgage or a second mortgage, or a consumer loan secured by an interest in a manufactured home as defined by 42 U.S.C. § 5402(6), prepaid finance charges in an amount not to exceed 8% of the amount financed may be charged, provided that the aggregate amount of prepaid finance charges payable to the lender or any person related to the lender do not exceed 5% of the amount financed; and~~

~~(b) for any other consumer loan, prepaid finance charges in~~ *to* an amount not to exceed the lesser of 2% of the amount financed or ~~$100 may be charged~~ *$300*.

Prepaid finance charges permitted under this subsection are in addition to finance charges permitted under subsection (1), ~~(2), (3)~~ and ~~(4)~~ *(2)*, as applicable. Prepaid finance charges permitted under this subsection are fully earned when paid and are non-refundable, unless the parties agree otherwise in writing.

~~(7) The finance charge limitations in subsections (3) and (4) do not apply to a consumer loan the finance charge for which is governed by subsection (h) of K.S.A. 16-207, and amendments thereto.~~

~~(8) If a loan secured by a first mortgage constitutes a "consumer loan" under subsection (17) of K.S.A. 16a-1-301, and amendments thereto, by virtue of the loan-to-value ratio exceeding 100% at the time the loan is made, then the periodic finance charge for the loan shall not exceed that authorized by subsection (b) of K.S.A. 16-207, and amendments thereto, but the loan is subject to the limitations on prepaid finance charges set forth in paragraph (a) of subsection (6), which prepaid finance charges may be charged in addition to the finance charges permitted under subsection (b) of K.S.A. 16-207, and amendments thereto.~~

~~(9)~~*(5)* If, within 12 months after the date of the original loan, a lender or a person related to the lender refinances a loan with respect to which a prepaid finance charge was payable to the same lender pursuant to subsection ~~(6)~~ *(4)*, then the following apply:

(a) ~~If a prepaid finance charge with respect to the original loan was payable to the lender pursuant to paragraph (a) of subsection (6), then the aggregate amount of prepaid finance charges payable to the lender or any person related to the lender with respect to the new loan may not exceed 5% of the additional amount financed.~~

~~(b)~~ If a prepaid finance charge with respect to the original loan was payable to the lender pursuant to ~~paragraph (b) of~~ subsection ~~(6)~~ *(4)*, then the aggregate amount of prepaid finance charges payable to the lender

or any person related to the lender with respect to the new loan may not exceed the lesser of 2% of the additional amount financed or ~~$100~~ *$300*.

~~(c)~~*(b)* For purposes of this subsection, "additional amount financed" means the difference between:

(i) The amount financed for the new loan, less the amount of all ~~closing~~ costs incurred in connection with the new loan which are not included in the prepaid finance charges for the new loan; and

(ii) the unpaid principal balance of the original loan.

~~(10)~~*(6)* For any period in which a finance charge is due on a consumer loan pursuant to ~~open end~~ *open-end* credit, the parties may agree on a minimum amount.

~~(11) If the parties to a contract for deed to real estate agree in writing to make the transaction subject to the uniform consumer credit code, then the transaction is subject to the same limitations as set forth in subsections (4) and (6) for a consumer loan secured by a first mortgage.~~

~~(12)~~*(7)* This section does not apply to a payday loan governed by K.S.A. 16a-2-404, and amendments thereto.

Sec. 50. K.S.A. 16a-2-402 is hereby amended to read as follows: 16a-2-402. (1) This section applies only to consumer loans pursuant to ~~open end~~ *open-end* credit.

(2) A charge may be made in each billing cycle which is a percentage of an amount no greater than:

(a) The average daily balance of the account, which is the sum of the actual amounts outstanding each day during the billing cycle divided by the number of days in the cycle; *or*

(b) the unpaid balance of the account on the last day of the billing cycle.

(3) If the billing cycle is monthly, the charge may not exceed $^1/_{12}$ of the annual rate agreed to by the consumer. If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to 30. For the purposes of this section, a variation of not more than four days from month to month is "the last day of the billing cycle."

Sec. 51. K.S.A. 16a-2-403 is hereby amended to read as follows: 16a-2-403. No ~~seller or lessor~~ *person or retailer doing business* in any sales*, service* or lease transaction ~~or any credit or debit card issuer~~ *with a customer* may impose a surcharge on a ~~card holder~~ *customer* who elects to use a credit ~~or debit card in lieu of payment by cash, check or similar means. A surcharge is any additional amount imposed at the time of the sales or lease transaction by the merchant, seller or lessor that increases the charge to the buyer or lessee for the privilege of using a credit or debit~~ card *as payment unless such person or retailer discloses the amount of such a surcharge through a clear and conspicuous notice to the customer at the point of entry or the point of sale and in advance of such transaction*.

Sec. 52. K.S.A. 16a-2-404 is hereby amended to read as follows: 16a-2-404. (1) On consumer loan transactions in which cash is advanced:

(a) With a short term,

(b) a single payment repayment is anticipated, and

(c) such cash advance is equal to or less than $500, a licensed or supervised lender may charge an amount not to exceed 15% of the amount of the cash advance.

(2) The minimum term of any loan under this section shall be 7 days and the maximum term of any loan made under this section shall be 30 days.

(3) A lender and related interest shall not have more than two loans made under this section outstanding to the same borrower at any one time and shall not make more than three loans to any one borrower within a 30 calendar day period. Each lender shall maintain a journal of loan transactions for each borrower which shall include at least the following information:

(a) Name, address and telephone number of each borrower; and

(b) date made and due date of each loan.

(4) Each loan agreement made under this section shall contain the following notice in at least 10 point bold face type: NOTICE TO BORROWER: KANSAS LAW PROHIBITS THIS LENDER AND THEIR RELATED INTEREST FROM HAVING MORE THAN TWO LOANS OUTSTANDING TO YOU AT ANY ONE TIME. A LENDER CANNOT DIVIDE THE AMOUNT YOU WANT TO BORROW INTO MULTIPLE LOANS IN ORDER TO INCREASE THE FEES YOU PAY.

Prior to consummation of the loan transaction, the lender must:

(a) Provide the notice set forth in this subsection in both English and Spanish; and

(b) obtain the borrower's signature or initials next to the English version of the notice or, if the borrower advises the lender that the borrower is more proficient in Spanish than in English, then next to the Spanish version of the notice.

(5) The contract rate of any loan made under this section shall not be more than 3% per month of the loan proceeds after the maturity date. No insurance charges or any other charges of any nature whatsoever shall be permitted, except as stated in subsection (7), including any charges for cashing the loan proceeds if they are given in check form.

(6) Any loan made under this section shall not be repaid by proceeds of another loan made under this section by the same lender or related interest. The proceeds from any loan made under this section shall not be applied to any other loan from the same lender or related interest.

(7) *A consumer who is unable to repay a payday loan as contemplated under this section when due may elect once every 12 months to repay the payday loan by means of an extended payment plan. The 12-month period*

shall be measured from the date that the consumer pays in full an extended payment plan with the lender until the date that the consumer enters another extended payment plan with the lender.

(a) To request an extended payment plan, the consumer shall request the plan before close of business on the last business day before the due date of the outstanding payday loan and sign an amendment to the original agreement which memorializes the plan terms.

(b) The extended payment plan terms shall allow the consumer to repay the outstanding payday loan including any fee due in at least four substantially equal installments. Each plan installment shall be due on or after a date on which the consumer receives regular income, or, if the consumer has no regular income, due dates shall be a minimum of two weeks between installments. The consumer may prepay an extended payment plan in full at any time without penalty. As long as the consumer complies with the terms of the extended payment plan, the plan shall be at no additional cost to the consumer and the lender shall not charge the consumer any interest or additional fees during the term of the extended payment plan. The lender may, with each payment under the plan by the consumer, provide for the return of the consumer's prior held check and require a new check for the remaining balance under the plan.

(c) If the consumer fails to pay any extended payment plan installment when due, the consumer shall be in default of the payment plan and the lender may immediately accelerate payment on the remaining balance and take action to collect all amounts due.

(d) No additional payday loan shall be made to the consumer under this section during an extended payment plan.

(e) Lenders shall prominently display the availability of extended payment plans where loans are made and shall disclose the availability of extended payment plans in payday loan agreements.

(8) On a consumer loan transaction in which cash is advanced in exchange for a personal check, one return check charge may be charged if the check is deemed insufficient as defined in ~~paragraph (e) of subsection (1) of~~ K.S.A. 16a-2-501*(1)(e)*, and amendments thereto. Upon receipt of the check from the consumer, the lender shall immediately stamp the back of the check with an endorsement that states: "Negotiated as part of a loan made under K.S.A. 16a-2-404. Holder takes subject to claims and defenses of maker. No criminal prosecution."

~~(8)~~*(9)* In determining whether a consumer loan transaction made under the provisions of this section is unconscionable conduct under K.S.A. 16a-5-108, and amendments thereto, consideration shall be given, among other factors, to:

(a) The ability of the borrower to repay within the terms of the loan made under this section; or

(b) the original request of the borrower for amount and term of the loan are within the limitations under this section.

~~(9)~~*(10)* A consumer may rescind any consumer loan transaction made under the provisions of this section without cost not later than the end of the business day immediately following the day on which the loan transaction was made. To rescind the loan transaction:

(a) A consumer shall inform the lender that the consumer wants to rescind the loan transaction;

(b) the consumer shall return the cash amount of the principal of the loan transaction to the lender; and

(c) the lender shall return any fees that have been collected in association with the loan.

~~(10)~~*(11)* A person shall not commit or cause to be committed any of the following acts or practices in connection with a consumer loan transaction subject to the provisions of this section:

(a) Use any device or agreement that would have the effect of charging or collecting more fees, charges or interest~~,~~ or ~~which~~ *that* results in more fees, charges~~,~~ or interest being paid by the consumer, than allowed by the provisions of this section, including, but not limited to:

(i) Entering into a different type of transaction with the consumer;

(ii) entering into a sales/leaseback or rebate arrangement;

(iii) catalog sales; or

(iv) entering into any other transaction with the consumer or any other person that is designed to evade the applicability of this section;

(b) use, or threaten to use the criminal process in any state to collect on the loan;

(c) sell any other product of any kind in connection with the making or collecting of the loan;

(d) include any of the following provisions in a loan document:

(i) A hold harmless clause;

(ii) a confession of judgment clause;

(iii) a provision in which the consumer agrees not to assert a claim or defense arising out of the contract.

~~(11)~~*(12)* As used in this section, "related interest" shall have the same meaning as "person related to" in K.S.A. 16a-1-301, and amendments thereto.

~~(12)~~*(13)* Any person who facilitates, enables or acts as a conduit or agent for any third party who enters into a consumer loan transaction with the characteristics set out in ~~paragraphs (a) and (b) of subsection (1)~~ *subsections (1)(a) and (1)(b)* shall be required to obtain a supervised loan license pursuant to K.S.A. 16a-2-301, and amendments thereto, regardless of whether the third party may be exempt from licensure provisions of the ~~Kansas~~ uniform consumer credit code.

~~(13)~~*(14)* Notwithstanding that a person may be exempted by virtue of federal law from the interest rate, finance charge and licensure provisions of the ~~Kansas~~ uniform consumer credit code, all other provisions of the code shall apply to both the person and the loan transaction.

~~(14)~~*(15)* This section shall be supplemental to and a part of the uniform consumer credit code.

Sec. 53. K.S.A. 16a-2-501 is hereby amended to read as follows: 16a-2-501. (1) In addition to the finance charge permitted by the parts of this article on maximum finance charges for consumer credit sales and consumer loans ~~(parts 2 and 4)~~, a creditor may contract for and receive the following additional charges in connection with a consumer credit transaction:

(a) Official fees and taxes;

(b) charges for insurance as described in subsection (2);

(c) ~~delinquency charges~~*late fees* permitted under K.S.A. 16a-2-502, and amendments thereto, and service charges for insufficient ~~checks~~ *payment methods* permitted under paragraph (e);

(d) charges for other benefits, including insurance, conferred on the consumer, if the benefits are of value to the consumer and if the charges are reasonable in relation to the benefits, are of a type which is not for credit, and are excluded as permissible additional charges from the finance charge by rules and regulations adopted by the administrator;

(e) a service charge for an insufficient ~~check as defined and authorized by~~ *payment method, not to exceed $30, subject to the limitations contained in* this subsection:

(i) For the purposes of this subsection, "insufficient ~~check~~ *payment method*" means any ~~check, order or draft~~ *instrument as defined in K.S.A. 84-3-104, and amendments thereto,* drawn on any ~~bank, credit union, savings and loan association, or other~~ financial institution for the payment of money ~~and delivered in payment, in whole or in part,~~ of preexisting indebtedness of the drawer or maker, which is refused payment by the drawee because the drawer or maker does not have sufficient funds in or credits with the drawee to pay the amount of the ~~check, order or draft~~ *instrument* upon presentation~~, provided that~~. Any ~~check, order or draft which~~ *payment instrument that* is postdated or delivered to a payee who has knowledge at the time of delivery that the drawer or maker did not have sufficient funds in or credits with the drawee to pay the amount of the check, draft or order upon presentation shall not be deemed an insufficient ~~check~~ *payment instrument*.

(ii) ~~"Written notice" shall be presumed to have been given a drawer or maker of an insufficient check when notice is sent by first class mail addressed to the person to be given notice of such person's address as it appears on the insufficient check or to such person's last known address~~

~~or notice provided on a regular monthly statement provides clear notice of the insufficient check charge being assessed~~*"Notice" shall be given to a consumer providing an insufficient payment method by one of the following methods:*

(1) First class mail addressed to the consumer's last known address; or

(2) a clear notice of the insufficient payment method charge on the consumer's regular monthly statement.

(iii) ~~When an insufficient check has been given to a payee, the payee may charge and collect a $10 insufficient check service charge from the drawer or maker, subject to limitations contained in this subsection or, if a larger amount is provided within the contract, the larger amount, if the payee has given the drawer or maker oral or written notice of demand that the amount of the insufficient check plus the insufficient check service charge be paid to the payee within 14 days from the giving of notice. In no event shall the amount of such insufficient check service charge exceed $30.~~

~~(iv)~~ If the ~~drawer or maker of an insufficient check~~ *consumer* does not pay the amount of the insufficient ~~check~~ *payment* plus the ~~insufficient check~~ service charge ~~provided for in subsection (iii)~~ to the payee within 14 days from the giving of notice ~~as provided in subsection (iii)~~, the payee may add the ~~insufficient check~~ service charge to the outstanding balance of the preexisting indebtedness of the ~~drawer or maker~~ *consumer* to draw interest at the contract rate applicable to the preexisting indebtedness.

~~(v)~~*(f)* Notwithstanding the provisions of ~~subparagraph (iii)~~ *subsection (e)*, if an insufficient ~~check~~ *payment method* has been given to a creditor under a lender credit card, the creditor may charge a service charge for the insufficient ~~check~~ *payment method* in an amount not to exceed the amount agreed to by the drawer or maker.

(2) ~~An additional charge may be made for insurance written in connection~~*Except as otherwise provided for in this act, a creditor may agree to provide insurance and may contract for and receive an additional charge for insurance written in connection* with the transaction, including vendor's single interest insurance with respect to which the insurer has no right of subrogation against the consumer but excluding other insurance protecting the creditor against the consumer's default or other credit loss:

(a) With respect to insurance against loss of or damage to property~~,~~ or against liability, if the creditor furnishes a clear and specific statement in writing to the consumer setting forth the cost of the insurance if obtained from or through the creditor and stating that the consumer may choose the person through whom the insurance is to be obtained~~; and~~

(b) with respect to consumer credit insurance providing life, accident and health~~,~~ or loss of employment coverage, if the insurance coverage is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the consumer, and if, in order to

obtain the insurance in connection with the extension of credit, the consumer gives specific affirmative written indication of the consumer's desire to do so after written disclosure to the consumer of the cost thereof*;*

(c) a creditor need not make a separate charge for insurance provided or required by such creditor. This act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance; and

(d) the excess amount of a charge for insurance provided for in agreements in violation of this act is an excess charge for the purposes of this act.

(3) With respect to a consumer loan or a consumer credit sale in either case pursuant to ~~open end~~ *open-end* credit, a creditor may charge the following fees in an amount not to exceed that agreed to by the consumer:

(a) Fees on a monthly or annual basis;

(b) over-limit fees; and

(c) cash advance fees. The fees permitted under this subsection are in addition to any finance charges, additional charges or other charges permitted by the uniform consumer credit code.

(4) A charge not exceeding $5 per payment, if the borrower makes a single installment payment by authorizing a creditor, verbally or in writing, to ~~write a check or process a payment through use of the automated clearing house procedures on the borrower's checking account~~, *make a payment through electronic methods* subject to the following limitations:

~~(A)~~*(a)* No charge shall be assessed if the creditor also collects a ~~delinquency~~ *late* fee on the same installment; and

~~(B)~~*(b)* no charge shall be assessed where the consumer has agreed in writing with the creditor to make all scheduled payments through the use of ~~the automated clearing house procedures~~ *electronic methods*.

Sec. 54. K.S.A. 16a-2-502 is hereby amended to read as follows: 16a-2-502. (1) The parties to a consumer credit transaction may contract for a ~~delinquency charge~~ *late fee* on any installment not paid in full within 10 *calendar* days after its scheduled or deferred due date in an amount not exceeding 5% of the unpaid amount of the installment or $25, whichever is less.

(2) As an alternative to the ~~delinquency charge~~ *late fee* set forth in subsection (1), the parties to a consumer credit transaction may contract for a ~~delinquency charge~~ *late fee* not to exceed $10 on any installment not paid in full within 10 *calendar* days after its scheduled or deferred due date, except that if the scheduled payment amount is $25 or less, the maximum ~~delinquency charge~~ *late fee* shall be $5.

(3) A ~~delinquency charge~~ *late fee* may be collected only once on an installment however long it remains in default. A ~~delinquency charge~~ *late fee* may be collected at the time it ~~accrues~~ *is assessed* or at any time thereafter.

(4) ~~No delinquency charge may be collected on an installment which is paid in full within 10 days after its scheduled or deferred installment due date even though an earlier maturing installment or a delinquency charge on an earlier installment may not have been paid in full~~ *No late fee may be assessed when such a fee or charge is attributable solely to failure of the consumer to pay a late fee on an earlier installment and the payment is otherwise a periodic payment received on the due date, or within 10 calendar days after its scheduled or deferred installment due date*.

(5) ~~For delinquency charge purposes, a payment made prior to the due date of the next installment payment shall be applied to the previous installment. For all other purposes, payments are applied to installments in the order in which they fall due.~~

~~(6)~~ Notwithstanding subsections (1), (2)~~, (4)~~ and ~~(5)~~ *(4)*, the parties to a lender credit card agreement may contract for a ~~delinquency charge~~ *late fee* in an amount agreed to by the consumer and may impose such charge on any installment not paid in full on the next business day following the scheduled due date of the ~~delinquent~~ *late* payment.

~~(7)~~*(6)* Notwithstanding subsections (1), (2)~~, (4), (5)~~ and ~~(6)~~ *(4)*, no ~~delinquency charge~~ *late fee* may be collected on a lender credit card installment which is paid in full on the next business day following the scheduled or deferred due date even though an earlier maturing installment or a ~~delinquency charge~~ *late fee* on an earlier installment may not have been paid in full.

Sec. 55. K.S.A. 16a-2-504 is hereby amended to read as follows: 16a-2-504. With respect to a consumer credit transaction, the creditor may by agreement with the consumer refinance the unpaid balance ~~and may contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on finance charge for consumer credit sales other than open end credit (section 16a-2-201) if a consumer credit sale is refinanced, or for consumer loans (subsections (1) or (2) of section 16a-2-401, whichever is appropriate) if a consumer loan is refinanced~~*, including any accrued charges*. For the purpose of determining the finance charge permitted, the amount financed resulting from the refinancing *refinanced* shall be ~~comprised of~~ the total of the unpaid balance and the accrued charges on the date of the refinancing.

Sec. 56. K.S.A. 16a-2-505 is hereby amended to read as follows: 16a-2-505. (1) If a consumer owes an unpaid balance to a creditor with respect to a consumer credit transaction and becomes obligated on another consumer credit transaction with the same creditor, the parties may agree to a consolidation resulting in a single schedule of payments. The parties may agree to add the unpaid amount of the amount financed and accrued

charges on the date of consolidation to the amount financed with respect to the subsequent consumer credit transaction.

The creditor may contract for and receive a finance charge as provided in subsection (2) based on the aggregate amount financed resulting from the consolidation.

(2) If the debts consolidated arise exclusively from consumer credit sales the transaction is a consolidation ~~with respect to~~ *as* a consumer credit sale and the amount of the finance charge is governed by the provisions on finance charge for consumer credit sales other than ~~open end~~ *open-end* credit ~~(section 16a-2-201)~~. If the debts consolidated include a debt arising from a consumer loan, the transaction is a consolidation ~~with respect to~~ *as* a consumer loan and the amount of the finance charge is governed by the provisions on finance ~~charge~~ *charges* for consumer loans ~~(subsection (1) or (2) of section 16a-2-401), as appropriate~~.

~~(3) If a consumer owes an unpaid balance to a creditor with respect to a consumer credit transaction arising out of a consumer credit sale, and becomes obligated on another consumer credit transaction arising out of another consumer credit sale by the same seller, the parties may agree to a consolidation resulting in a single schedule of payments either pursuant to subsection (1) or by adding together the unpaid balances with respect to the two sales.~~

Sec. 57. K.S.A. 16a-2-506 is hereby amended to read as follows: 16a-2-506. (1) ~~If the agreement with respect to a consumer credit transaction contains covenants by the consumer to perform certain duties pertaining to insuring or preserving collateral and the creditor pursuant to the agreement pays for performance of the duties on behalf of the consumer, he may, after giving prior notification and giving the buyer reasonable opportunity to perform, add the amounts paid to the debt~~ *If a consumer credit transaction agreement requires a consumer to insure or preserve the collateral and the consumer fails to do so, after providing the consumer prior notification and a reasonable opportunity to perform, the creditor may pay for the performance of insuring or preserving the collateral on the consumer's behalf and may add the payment to the unpaid debt balance*. Within a reasonable time after advancing any sums, ~~he~~ *the creditor* shall state to the buyer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the consumer performed by the creditor pertain to insurance, a brief description of the insurance paid for by the creditor including the type and amount of coverages. No further information need be given.

(2) A finance charge may be made for sums advanced pursuant to subsection (1) at a rate not ~~exceeding~~ *to exceed* the rate stated to the consumer pursuant to law in a disclosure statement, except that with respect

to ~~open end~~ *open-end* credit the amount of the advance may be added to the unpaid balance of the debt and the creditor may make a finance charge not exceeding that permitted by the appropriate provisions on finance charge for consumer credit sales pursuant to ~~open end~~ *open-end* credit ~~(section 16a-2-202)~~ or for consumer loans ~~(subsection (1) or (2) of section 16a-2-401)~~, whichever is appropriate.

Sec. 58. K.S.A. 16a-2-507 is hereby amended to read as follows: 16a-2-507. *(1) (a)* With respect to a consumer credit transaction, the agreement may provide for the payment by the debtor of reasonable costs of collection *paid to outside parties*, including, but not limited to, court costs, attorney fees and collection agency fees, except that such costs of collection *shall not*:

~~(1)~~*(A)* ~~May not~~ Include costs that were incurred by a salaried employee of the creditor or its assignee;

~~(2)~~*(B)* ~~may not~~ include the recovery of both attorney fees and collection agency fees; ~~and~~ *or*

~~(3)~~*(C)* ~~shall not~~ be in excess of 15% of the unpaid debt after default.

(2) A provision in violation of this ~~section is~~ *subsection shall be* unenforceable.

(b) Reasonable collection costs and attorney fees pursuant to subsection (a) shall be considered separate from reasonable expenses incurred on realizing a security interest pursuant to K.S.A. 16a-3-402, and amendments thereto.

Sec. 59. K.S.A. 16a-2-508 is hereby amended to read as follows: 16a-2-508. The parties may agree to add the unpaid balance of a consumer credit transaction not made pursuant to ~~open end~~ *open-end* credit to the consumer's ~~open end~~ *open-end* credit account with the creditor. The unpaid balance so added ~~is~~ *shall be* an amount equal to the amount financed determined according to the provisions on finance charge on refinancing ~~(section 16a-2-504)~~.

Sec. 60. K.S.A. 16a-2-510 is hereby amended to read as follows: 16a-2-510. (1) Upon prepayment in full, but not upon a refinancing ~~(K.S.A. 16a-2-504, and amendments thereto),~~ of a consumer credit transaction other than one pursuant to ~~open end~~ *open-end* credit, the creditor may collect or retain a minimum charge of ~~$5 in a transaction which had an amount financed of $75 or less, or $7.50 in a transaction which had an amount financed of more than $75~~ *$10*, if the minimum charge was contracted for and the finance charge earned at the time of prepayment is less than the minimum charge contracted for. ~~In those instances where the amounts financed are under or over $75 and~~ *If* the finance charge is less than the minimum provided therefor, then the finance charge so contracted may be retained as the minimum finance charge.

(2) If the maturity is accelerated for any reason and judgment is obtained, the judgment shall be taken in accordance with the provisions of K.S.A. 16-205, and amendments thereto.

(3) Upon prepayment in full of a consumer credit contract by proceeds of consumer credit insurance~~, K.S.A. 16a-4-103, and amendments thereto~~, the consumer or the consumer's estate ~~is~~ *shall be* entitled to the same rebate as though the consumer had prepaid the agreement on the date the proceeds of the insurance are paid to the creditor, but no later than 10 business days after satisfactory proof of loss is furnished to the creditor.

Sec. 61. K.S.A. 16a-3-201 is hereby amended to read as follows: 16a-3-201. A lessor shall disclose to the consumer the information required by rules and regulations adopted by the administrator pursuant to K.S.A. ~~16a-6-117~~ *16a-6-104*, and amendments thereto.

Sec. 62. K.S.A. 16a-3-202 is hereby amended to read as follows: 16a-3-202. *(1)* A written agreement ~~which~~ *that* requires or provides for the signature of the consumer and ~~which~~ *that* evidences a consumer ~~credit transaction~~ *loan or consumer credit sale* other than one pursuant to ~~open end~~ *open-end* credit shall contain a clear, conspicuous, and printed notice to the consumer that ~~he~~ *such consumer* should not sign the agreement before reading it, and that ~~he~~ *such consumer* is entitled to a copy of the agreement and ~~to~~ *may* prepay the unpaid balance at any time without penalty. The following notice if clearly and conspicuously printed complies with this ~~section~~ *subsection*:

NOTICE TO CONSUMER: 1. Do not sign this agreement before you read it. 2. You are entitled to a copy of this agreement. 3. You may prepay the unpaid balance at any time without penalty.

(2) A written agreement that requires or provides for the signature of the consumer and that evidences a consumer lease shall contain a clear, conspicuous and printed notice to the consumer that such consumer should not sign the agreement before reading it and that such consumer is entitled to a copy of the agreement. The following notice if clearly and conspicuously printed complies with this subsection:

NOTICE TO CONSUMER: 1. Do not sign this agreement before you read it. 2. You are entitled to a copy of this agreement.

Sec. 63. K.S.A. 16a-3-203 is hereby amended to read as follows: 16a-3-203. *(1)* The consumer is authorized to pay the original creditor until he receives notification of assignment of rights to payment pursuant to a consumer credit transaction and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the consumer, the assignee must ~~seasonably furnish~~ *provide* reasonable proof that the assignment has been made ~~and unless he does so~~ *or* the consumer may pay the original creditor.

(2) If the payment is received by the assignor of a consumer credit contract for the benefit of the assignee, the date of payment shall be deemed to be the day payment is received by the assignor.

Sec. 64. K.S.A. 16a-3-204 is hereby amended to read as follows: 16a-3-204. (1) If a creditor makes a change in the terms of an ~~open end~~ *open-end* credit account without complying with this section any additional cost or charge to the consumer resulting from the change is an excess charge and subject to the remedies available to consumers ~~(section 16a-5-201)~~ and to the administrator ~~(section 16a-6-113)~~.

(2) A creditor may change the terms, including the finance charge, of an ~~open end~~ *open-end* credit account whether or not the change is authorized by prior agreement. Except as provided in subsection (3), the ~~lender~~ *creditor* shall give to the consumer written notice of any change at least 30 days before the effective date of the change.

(3) The notice specified in subsection (2) is not required if:

(a) The consumer elects to pay an amount designated on a billing statement as including a new charge for a benefit offered to the consumer when the benefit and charge constitute the change in terms and when the billing statement also states the amount payable if the new charge is excluded;

(b) the change involves no significant cost to the consumer; or

(c) the change applies only to debts incurred after a date specified in a notice of the change.

(4) The notice provided for in this section is given to the consumer when mailed to the consumer at the address used by the creditor for sending periodic billing statements.

Sec. 65. K.S.A. 16a-3-205 is hereby amended to read as follows: 16a-3-205. (1) The creditor shall deliver or mail to the consumer, without request, a written receipt for each payment by coin or currency on an obligation pursuant to a consumer credit transaction. A periodic statement showing a payment received by mail ~~complies~~ *or electronic methods shall comply* with this subsection.

(2) Upon written request of the consumer, the person to whom an obligation is owed pursuant to a consumer credit transaction, other than one pursuant to ~~open end~~ *open-end* credit, shall provide a written statement of the dates and amounts of payments made within the past 15 months and the amount required to pay the debt in full. The statement shall be provided without charge.

(3) After a consumer has fulfilled all obligations with respect to a consumer credit transaction, other than one pursuant to ~~open end~~ *open-end* credit, the person to whom the obligation was owed shall upon request of the consumer, deliver or mail to the consumer written evidence acknowledging payment in full of all obligations with respect to the transaction.

Sec. 66. K.S.A. 16a-3-206 is hereby amended to read as follows: 16a-3-206. A creditor shall disclose to the consumer the information required by the rules and regulations adopted by the administrator pursuant to K.S.A. ~~16a-6-117~~ *16a-6-104*, and amendments thereto.

Sec. 67. K.S.A. 16a-3-208 is hereby amended to read as follows: 16a-3-208. (1) ~~A supervised lender shall not~~ *No person shall make*, directly or indirectly, ~~make~~ a false, misleading or deceptive advertisement regarding loans or the availability of loans.

(2) ~~A supervised lender shall not~~ *No person shall* advertise ~~any size of loan~~ *the size of any loan*, security required for a loan, rate of charge or other conditions of lending except with the full intent of making loans at those rates, or lower rates, and under those conditions or conditions more favorable to the consumer, to loan applicants who meet the standards or qualifications prescribed ~~by the supervised lender~~.

(3) This section shall be supplemental to and a part of the uniform consumer credit code.

Sec. 68. K.S.A. 16a-3-209 is hereby amended to read as follows: 16a-3-209. (a) Unless otherwise specifically stated, for the purposes of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, in computing any period of time, calendar days shall be used. The day of the act, event or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays and legal holidays are included, unless the last day of the period so computed is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday. "Legal holiday" includes any day designated as a holiday by the Federal Reserve Bank.

(b) This section shall be part of and supplemental to the uniform consumer credit code.

Sec. 69. K.S.A. 16a-3-301 is hereby amended to read as follows: 16a-3-301. (1) With respect to a consumer credit sale, a seller may take a security interest in the property sold. In addition, a seller may take a security interest in goods upon which services are performed or in which goods sold are installed or to which they are annexed, or in land to which the goods are affixed or which is maintained, repaired or improved as a result of the sale of the goods or services, if in the case of a security interest in land the debt secured is $3,000 or more, or, in the case of a security interest in goods the debt secured is $900 or more. Except as provided with respect to ~~cross-collateral (K.S.A. 16a-3-302, and amendments thereto)~~ *cross-collateral,* a seller may not otherwise take a security interest in property of the buyer to secure the debt arising from a consumer credit sale.

(2) With respect to a consumer lease, a lessor may not take a security interest in property of the lessee to secure the ~~debt~~ *amount payable* arising from the lease.

(3) A security interest taken in violation of this section ~~is~~ *shall be* void.

Sec. 70. K.S.A. 16a-3-302 is hereby amended to read as follows: 16a-3-302. (1) In addition to contracting for a security interest pursuant to the provisions on security in sales or leases ~~(section 16a-3-301)~~, a seller in a consumer credit sale may secure the debt arising from the sale by contracting for a security interest in other property if as a result of a prior sale the seller has an existing security interest in the other property. The seller may also contract for a security interest in the property sold in the subsequent sale as security for the previous debt.

(2) If the seller contracts for a security interest in other property pursuant to this section, the ~~rate of credit service~~ *finance* charge thereafter on the aggregate unpaid balances so secured may not exceed that permitted if the balances so secured were consolidated pursuant to the provisions on consolidation involving a refinancing ~~(subsection (1) of section 16a-2-505)~~. The seller ~~has~~ *shall have* a reasonable time after so contracting to make any adjustments required by this section. "Seller" in this section does not include an assignee not related to the original seller.

Sec. 71. K.S.A. 16a-3-303 is hereby amended to read as follows: 16a-3-303. (1) If debts arising from two or more consumer credit sales, other than sales pursuant to ~~open end~~ *open-end* credit, are secured by cross-collateral ~~(section 16a-3-302)~~ or consolidated into one debt payable on a single schedule of payments, and the debt is secured by security interests taken with respect to one or more of the sales, payments received by the seller after the taking of the cross-collateral or the consolidation are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been first applied to the payment of the debts arising from the sales first made. To the extent debts are paid according to this section, security interests in items of property *shall* terminate as the ~~debts~~ *debt* originally incurred with respect to each item is paid.

(2) Payments received by the seller upon an ~~open end~~ *open-end* credit account are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been applied first to the payment of finance charges in the order of their entry to the account and then to the payment of debts in the order in which the entries to the account showing the debts were made.

(3) If the debts consolidated arose from two or more sales made on the same day, payments received by the seller are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been applied first to the payment of the smallest debt.

Sec. 72. K.S.A. 16a-3-304 is hereby amended to read as follows: 16a-3-304. (1) ~~A creditor may not~~ *No creditor may* engage in a pattern or practice of using multiple agreements to obtain a higher finance charge than would otherwise be permitted by the provisions of ~~the article on finance charges and related provisions (article 2)~~ *K.S.A. 16a-1-101 et seq., and amendments thereto*.

(2) The excess amount of finance charge ~~provided for~~ in this section is an excess charge for the purposes of the provisions on rights of parties ~~(K.S.A. 16a-5-201, and amendments thereto)~~ and the provisions on civil actions by ~~administrator (K.S.A. 16a-6-113, and amendments thereto)~~ *the administrator*.

Sec. 73. K.S.A. 16a-3-305 is hereby amended to read as follows: 16a-3-305. (1) ~~A creditor may not~~ *No creditor may* take an assignment of earnings of the consumer for payment or as security for payment of a debt arising out of a consumer credit transaction. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the consumer. This section does not prohibit an employee from authorizing deductions from ~~his~~ *such employee's* earnings if the authorization is revocable.

(2) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to ~~him~~ *the consumer* secured by an assignment of earnings.

Sec. 74. K.S.A. 16a-3-306 is hereby amended to read as follows: 16a-3-306. ~~A consumer may not~~*No consumer or any other person acting on the consumer's behalf may* authorize any person to confess judgment on a claim arising out of a consumer credit transaction. An authorization in violation of this section ~~is~~ *shall be* void.

Sec. 75. K.S.A. 16a-3-307 is hereby amended to read as follows: 16a-3-307. With respect to a consumer credit sale or consumer lease, the creditor ~~may not take a negotiable instrument other than a currently dated check~~ *shall only accept currently dated negotiable instruments* as evidence of the obligation of the buyer or lessee. *For purposes of this section, a creditor shall not make the consumer credit sale contract or consumer lease contract a negotiable instrument*.

Sec. 76. K.S.A. 16a-3-308 is hereby amended to read as follows: 16a-3-308. ~~With respect to~~*In* a consumer credit transaction *with a balloon payment*, other than one pursuant to ~~open-end credit if any scheduled payment is more than twice as large as the average of earlier scheduled payments~~ *open-end credit*, the consumer ~~has~~ *shall have* the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the consumer than the terms of the original transaction. ~~These provisions do~~ *The provi-*

sions of this section shall not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the consumer ~~or to a note secured by a real estate mortgage~~.

Sec. 77. K.S.A. 16a-3-309 is hereby amended to read as follows: 16a-3-309. ~~With respect to a consumer credit sale or consumer lease the seller or lessor may not give or offer to give a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease. If a buyer or lessee is induced by a violation of this section to enter into a consumer credit sale or consumer lease, the agreement is unenforceable by the seller or lessor and the buyer or lessee, at his option, may rescind the agreement or retain the goods delivered and the benefit of any services performed, without any obligation to pay for them~~ *(1) (a) In a consumer credit sale, no seller shall offer or give a rebate, discount or otherwise pay value to the buyer in consideration of the buyer giving the seller the names of third parties, or otherwise assist the seller in making a sale to a third party when the earning of the rebate, discount or other value is contingent upon an event subsequent to the time of the sale.*

(b) In a consumer lease, no lessor shall offer or give a rebate, discount or otherwise pay value to the lessee in consideration of the lessee giving to the lessor the names of third parties, or otherwise aiding the lessor in leasing to a third party when the earning of the rebate, discount or other value is contingent upon an event subsequent to the time of the lease.

(2) If a buyer or lessee is induced by a violation of this section to enter into a consumer credit sale or consumer lease, the agreement shall be unenforceable by the seller or lessor and the buyer or lessee, at the buyer's or lessee's option, may rescind the agreement or retain the goods delivered and the benefit of any services performed, without any obligation to pay for them.

Sec. 78. K.S.A. 16a-3-402 is hereby amended to read as follows: 16a-3-402. Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer credit transaction may not provide for any charges as a result of default by the consumer other than those authorized by K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto*. A provision in violation of this section ~~is~~ *shall be* unenforceable.

Sec. 79. K.S.A. 16a-3-403 is hereby amended to read as follows: 16a-3-403. (1) If the issuer of a credit card, other than a lender credit card, is

the seller or lessor or a person related to the seller or lessor, or if the seller or lessor is licensed, franchised, or permitted by the issuer to do business under the business name or trade name or designation of the issuer, the issuer is subject to all claims and defenses of a buyer or lessee against the seller or lessor arising out of a sale or lease of goods or services pursuant to the credit card.

(2) The issuer of a lender credit card is not subject to the claims and defenses of a buyer or lessee arising out of a sale or lease of goods or services pursuant to a lender credit card except where a home solicitation sale is involved. For purposes of this section, a "home solicitation sale" means a sale to a consumer of goods (other than equipment used in a business) or services, in which the seller or a person acting for the seller engages in a personal solicitation (other than by telephone or mail) of the sale at a residence of the buyer. It does not include a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

(3) Claims or defenses of a buyer or lessee against a seller or lessor in connection with a home solicitation sale may be asserted against the issuer of the lender credit card only:

(a) If the buyer or lessee has attempted in good faith to obtain reasonable satisfaction from the seller or lessor with respect to claims or defenses, and

(b) to the extent of the amount owing to the issuer with respect to the sale or lease at the time the issuer has notice of the claims or defenses. Notice of the claims or defenses may be given prior to the attempt specified in paragraph (a). The notice, which may generally state the claims or defenses, ~~must~~ *shall* be in writing ~~but may be~~ *and* sent to ~~either~~ the seller ~~(or lessor)~~, *the lessor* or to the issuer.

(4) For the purpose of determining the amount owing to the issuer with respect to a sale or lease under a credit card, payments received upon the account are deemed to have been first applied to the payment of finance charges in the order of their entry to the account and then to the payment of debts in the order in which the entries of the debts are made to the account.

(5) An agreement may not provide for greater rights for an issuer of a credit card than this section permits.

Sec. 80. K.S.A. 16a-3-404 is hereby amended to read as follows: 16a-3-404. (1) An assignee of the rights of the seller or lessor under a consumer credit sale or consumer lease is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease, notwithstanding that:

(a) There is an agreement to the contrary; or

(b) the assignee is a holder in due course of a negotiable instrument issued in violation of the provisions prohibiting certain negotiable instruments ~~(section 16a-3-307)~~.

(2) Claims or defenses of a buyer or lessee specified in subsection (1) may be asserted against the assignee only:

(a) If the buyer or lessee has attempted in good faith to obtain reasonable satisfaction from the seller or lessor with respect to claims or defenses;

(b) if the buyer or lessee, when requested in writing to do so by the seller, lessor or the assignee, has given notice in writing to the seller or lessee and the assignee stating the claims or defenses;

(c) to the extent of the amount owing to the assignee with respect to the sale or lease at the time the assignee has notice of such claims or defenses. Such notice, generally stating the claims or defenses, ~~must~~ *shall* be in writing and shall be sent to the seller ~~(~~or lessor~~),~~ and to the assignee if the buyer or lessee has received written notice of the name and address of the assignee; and

(d) as a matter of defense to or setoff against claims by the assignee except that the buyer or lessee shall not be prohibited from bringing an action to rescind an obligation against which it has a defense or setoff.

(3) For the purpose of determining the amount owing to the assignee with respect to the sale or lease:

(a) Payments received by the assignee after the consolidation of two or more consumer credit sales, other than pursuant to ~~open end~~ *open-end* credit, are deemed to have been first applied to the payment of the sales first made; if the sales consolidated arose from sales made on the same day, payments are deemed to have been first applied to the smaller or smallest sale or sales;

(b) payments received upon an ~~open end~~ *open-end* credit account are deemed to have been first applied to the payment of finance charges in the order of their entry to the account and then to the payment of debts in the order in which the entries of the debts are made to the account.

(4) Any action by an assignee or the original seller or lessor who has repurchased an obligation under subsection (5) to enforce an obligation, or any action by a buyer or lessee to rescind~~,~~ or any request to repurchase the obligation, shall be brought within one year from the date of receipt of the notice of the claim or defense, or default in payment, whichever is later.

(5) If a claim or defense of a buyer or lessee against a seller or lessor is asserted against an assignee, the assignee may, regardless of any existing agreement to the contrary, require the seller or lessor to repurchase the obligation for an amount equal to the price for which the obligation was assigned, plus that portion of the finance charge earned by the assignee, minus payments previously made to the assignee by the buyer or lessee.

In any action by the buyer or lessee to rescind an obligation held by the assignee, the seller or lessor shall have the right to intervene and any party may join as a defendant any manufacturer or other person who is or may be liable to another party. If the action to rescind is brought against the seller or lessor, such seller or lessor shall have the right to join as a defendant any manufacturer or other person who is or may be liable to such seller or lessor.

(6) An agreement may not provide greater rights for an assignee than this section permits.

Sec. 81. K.S.A. 16a-3-405 is hereby amended to read as follows: 16a-3-405. (1) A lender, other than the issuer of a lender credit card, who, with respect to a particular transaction, makes a consumer loan for the purpose of enabling a consumer to buy or lease from a particular seller or lessee goods or services is subject to all claims and defenses of the consumer against the seller or lessor arising from that sale or lease of the goods and services if:

(a) The lender knows that the seller or lessor arranged, for a commission, brokerage~~,~~ or referral fee, for the extension of credit by the lender;

(b) the lender is a person related to the seller or lessor unless the relationship is remote or is not a factor in the transaction;

(c) the seller or lessor guarantees the loan or otherwise assumes the risk or loss by the lender upon the loan;

(d) the lender directly supplies the seller or lessor with the contract document used by the consumer to evidence the loan, and the seller or lessor significantly participates in the preparation of the document; or

(e) the loan is conditioned upon the consumer's purchase or lease of the goods or services from the particular seller or lessor, but the lender's payment of proceeds of the loan to the seller or lessor does not in itself establish that the loan was so conditioned.

(2) Claims or defenses of a buyer or lessee specified in subsection (1) may be asserted against the lender only:

(a) If the buyer or lessee has attempted in good faith to obtain reasonable satisfaction from the seller or lessor with respect to the claims or defenses;

(b) if the buyer or lessee, when requested in writing to do so by the seller, lessor or the lender, has given notice in writing to the seller or lessee and the lender stating the claims or defenses~~,~~*;*

(c) to the extent of the amount owing to the lender with respect to the sale or lease at the time the lender has notice of the claims or defenses. Such notice, generally stating the claims or defenses, ~~must~~ *shall* be in writing and shall be sent to the seller (or lessor), and to the lender if the buyer or lessee has received written notice of the name and address of the lender; and

(d) as a matter of defense to or setoff against claims by the lender except that the buyer or lessee shall not be prohibited from bringing an action to rescind an obligation against which it has a defense or setoff.

(3) For the purpose of determining the amount owing to the lender with respect to the sale or lease:

(a) Payments received by the lender after the consolidation of two or more consumer loans, other than pursuant to ~~open end~~ *open-end* credit, are deemed to have been first applied to the payment of the loans first made; if the loans consolidated arose from loans made on the same day, payments are deemed to have been first applied to the smaller or smallest loan or loans; and

(b) payments received upon an ~~open end~~ *open-end* credit account are deemed to have been first applied to the payment of finance charges in the order of their entry to the account and then to the payment of debts in the order in which the entries of the debts are made to the account.

(4) An agreement may not provide greater rights for a lender than this section permits.

(5) Notwithstanding any of the foregoing, the participation of the lender or lessor in any of the arrangements between seller and buyer to insure the perfection of the lender or lessor's security interest shall not in itself establish a relationship described and controlled by subsection (1).

Sec. 82. K.S.A. 16a-4-102 is hereby amended to read as follows: 16a-4-102. (1) Except as provided in subsection (2), this article applies to insurance provided or to be provided in relation to a consumer credit transaction.

(2) The provision on cancellation by a creditor ~~(section 16a-4-304)~~ applies to loans the primary purpose of which is the financing of insurance. No other provision of this article applies to insurance so financed.

Sec. 83. K.S.A. 16a-4-104 is hereby amended to read as follows: 16a-4-104. (1) Except as otherwise provided in this article and subject to the provisions on additional charges ~~(section 16a-2-501)~~ and maximum finance charges ~~(parts 2 and 4 of article 2)~~, a creditor may agree to provide insurance, and may contract for and receive a charge for insurance separate from and in addition to other charges. A creditor need not make a separate charge for insurance provided or required by him. This act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

(2) The excess amount of a charge for insurance provided for in agreements in violation of this article is an excess charge for the purposes of the provisions of the article on remedies and penalties ~~(article 5)~~ as to effect of violations on rights of parties ~~(section 16a-5-201)~~ and of the provisions of the article on administration ~~(article 6)~~ as to civil actions by the administrator ~~(section 16a-6-113)~~.

Sec. 84. K.S.A. 16a-4-105 is hereby amended to read as follows: 16a-4-105. If a creditor agrees with a consumer to provide insurance:

(1) The insurance shall be evidenced by an individual policy or certificate of insurance delivered to the consumer, or sent to ~~him at his address as stated by him, within thirty (30)~~ *such consumer at such consumer's address, as provided, within 30* days after the term of the insurance commences under the agreement between the creditor and consumer; or

(2) the creditor shall promptly notify the consumer of any failure or delay in providing the insurance.

Sec. 85. K.S.A. 16a-4-106 is hereby amended to read as follows: 16a-4-106. (1) In applying the provisions of this act on unconscionability ~~(sections 16a-5-108 and 16a-6-111)~~ to a separate charge for insurance, consideration shall be given, among other factors, to:

(a) Potential benefits to the consumer including the satisfaction of his obligations;

(b) the creditor's need for the protection provided by the insurance; and

(c) the relation between the amount and terms of credit granted and the insurance benefits provided.

(2) If consumer credit insurance otherwise complies with this article and other applicable law, *then* neither the amount ~~nor~~, the term of the insurance nor the ~~amount of a~~ charge ~~therefor~~ *of the insurance* is unconscionable.

Sec. 86. K.S.A. 16a-4-107 is hereby amended to read as follows: 16a-4-107. (1) Except as provided in subsection (2), if a creditor contracts for or receives a separate charge for insurance, the amount charged to the consumer for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the consumer is determined, conforming to any rate filings required by law and made by the insurer with the commissioner of insurance.

(2) A creditor who provides consumer credit insurance in relation to ~~open end~~ *open-end* credit may calculate the charge to the consumer in each billing cycle by applying the current premium rate to the unpaid balance of debt in the same manner as is permitted with respect to finance charges ~~by the provisions on finance charges~~ for consumer credit sales pursuant to ~~open end~~ *open-end* credit ~~(section 16a-2-202)~~.

Sec. 87. K.S.A. 16a-4-108 is hereby amended to read as follows: 16a-4-108. (1) Upon prepayment in full of a consumer credit sale or consumer loan by the proceeds of consumer credit insurance, the consumer or ~~his~~ *such consumer's* estate is entitled to a refund of any portion of a separate charge for insurance which by reason or prepayment is retained by the creditor or returned ~~to him~~ by the insurer unless the

charge was computed from time to time on the basis of the balances of the consumer's account.

(2) This article does not require a creditor to grant a refund or credit to the consumer if all refunds and credits due ~~to him~~ under this article amount to less than ~~one dollar ($1)~~ $5, and except as provided in subsection (1) does not require the creditor to account to the consumer for any portion of a separate charge for insurance because:

(a) The insurance is terminated by performance of the insurer's obligation;

(b) the creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(c) the creditor receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

(3) Except as provided in subsection (2), the creditor shall promptly make or cause to be made an appropriate refund or credit to the consumer ~~with respect to~~ *for* any separate charge made to ~~him~~ *such consumer* for insurance if:

(a) The insurance is not provided or is provided for a shorter term than that for which the charge to the consumer for insurance was computed; or

(b) the insurance terminates prior to the end of the term for which it was written because of prepayment in full or otherwise.

(4) A refund or credit required by subsection (3) is appropriate as to amount if it is computed according to a method prescribed or approved by the commissioner of insurance or a formula filed by the insurer with the commissioner of insurance at least ~~thirty (30)~~ *30* days before the consumer's right to a refund or credit becomes determinable, unless the method or formula is employed after the commissioner of insurance notifies the insurer that ~~he disapproves it~~ *it was not approved*.

Sec. 88. K.S.A. 16a-4-109 is hereby amended to read as follows: 16a-4-109. If a creditor requires insurance, the consumer shall have the option of providing the required insurance through an existing policy of insurance owned or controlled by the consumer, or through a policy ~~to be~~ obtained and paid for by the consumer, but the creditor may for reasonable cause decline the insurance provided by the consumer. The creditor shall provide the consumer with a written notice on the loan agreement or other instrument fully informing the consumer of the option authorized by this section.

Sec. 89. K.S.A. 16a-4-110 is hereby amended to read as follows: 16a-4-110. (1) A creditor may not contract for or receive a separate charge for insurance in connection with a refinancing ~~(section 16a-2-504)~~ or a consolidation ~~(section 16a-2-505)~~, unless:

(a) The consumer agrees at or before the time of refinancing or consolidation that the charge may be made;

(b) the consumer is or is to be provided with insurance for an amount or a term, or insurance of a kind, in addition to that to which ~~he~~ *said consumer* would have been entitled had there been no refinancing or consolidation;

(c) the consumer receives a refund or credit on account of any unexpired term of existing insurance in the amount that would be required if the insurance were terminated ~~(section 16a-4-108)~~; and

(d) the charge does not exceed the amount permitted by this article ~~(section 16a-4-107)~~.

(2) A creditor may not contract for or receive a separate charge for insurance which duplicates insurance with respect to which the creditor has previously contracted for or received a separate charge.

Sec. 90. K.S.A. 16a-4-111 is hereby amended to read as follows: 16a-4-111. The administrator and the commissioner of insurance are authorized and directed to consult and assist one another in maintaining compliance with this article. They may jointly pursue investigations, prosecute suits, and take other official action, as may seem to them appropriate, if either of them is otherwise empowered to take the action. If the administrator is informed of a violation or suspected violation by an insurer of this article, or of the insurance laws, rules, and regulations of this state, ~~he~~ *the administrator* shall advise the commissioner of insurance of the circumstances.

Sec. 91. K.S.A. 16a-4-112 is hereby amended to read as follows: 16a-4-112. (1) To the extent that the commissioner's responsibility under this article requires, the commissioner of insurance shall ~~issue rules with respect to~~ *adopt rules and regulations pursuant to this act regarding* insurers, ~~and with respect to~~ refunds ~~(K.S.A. 16a-4-108, and amendments thereto)~~, forms, schedules of premium rates and charges ~~(K.S.A. 16a-4-203, and amendments thereto), and~~, the commissioner's approval or disapproval ~~thereof~~ *of such rules and regulations adopted* and, in case of violation, may make an order for compliance.

(2) Each provision on administrative procedures and judicial review of the article on administration ~~(article 6) which~~ *that* applies to and governs administrative action taken by the administrator also applies to and governs all administrative action taken by the commissioner of insurance pursuant to this section.

Sec. 92. K.S.A. 16a-4-201 is hereby amended to read as follows: 16a-4-201. (1) Consumer credit insurance provided by a creditor may be subject to the furnishing of evidence of insurability satisfactory to the insurer. Whether or not such evidence is required, the term of the insurance shall commence no later than when the consumer becomes obligated to the creditor or when the consumer applies for the insurance, whichever is later, except as follows:

(a) If any required evidence of insurability is not furnished until more than ~~thirty (30)~~ *30* days after the term would otherwise commence, the term may commence on the date when the insurer determines the evidence to be satisfactory; or

(b) if the creditor provides insurance not previously provided covering debts previously created, the term may commence on the effective date of the policy.

(2) The originally scheduled term of the insurance shall extend at least until the due date of the last scheduled payment of the debt except as follows:

(a) If the insurance relates to an ~~open end~~ *open-end* credit account, the term need extend only until the payment of the debt under the account and may be sooner terminated after at least ~~thirty (30)~~ *30* days' notice to the consumer; or

(b) if the consumer is advised in writing that the insurance will be written for a specified shorter time, the term need extend only until the end of the specified time.

(3) The term of the insurance shall not extend more than ~~fifteen (15)~~ *15* days after the originally scheduled due date of the last scheduled payment of the debt unless it is extended without additional cost to the consumer or as an incident to a deferral, refinancing~~,~~ or consolidation.

Sec. 93. K.S.A. 16a-4-202 is hereby amended to read as follows: 16a-4-202. (1) Except as provided in subsection (2):

(a) In the case of consumer credit insurance providing life coverage, the amount of insurance may not initially exceed the debt and, if the debt is payable in installments, may not at any time exceed the greater of the scheduled or actual amount of the debt; or

(b) in the case of any other consumer credit insurance, the total amount of periodic benefits payable may not exceed the total of scheduled unpaid installments of the debt, and the amount of any periodic benefit may not exceed the original amount of debt divided by the number of periodic installments in which it is payable.

(2) If consumer credit insurance is provided in connection with an ~~open end~~ *open-end* credit account, the amounts payable as insurance benefits may be reasonably commensurate with the amount of debt as it exists from time to time. If consumer credit insurance is provided in connection with a commitment to grant credit in the future, the amounts payable as insurance benefits may be reasonably commensurate with the total from time to time of the amount of debt and the amount of the commitment.

Sec. 94. K.S.A. 16a-4-203 is hereby amended to read as follows: 16a-4-203. (1) A creditor may not use a form or a schedule of premium rates or charges, the filing of which is required by this section, if the commissioner of insurance has disapproved the form or schedule and

has notified the insurer of ~~his~~ *such* disapproval. A creditor may not use a form or schedule unless:

(a) The form or schedule has been on file with the commissioner of insurance for ~~thirty (30)~~ *30* days, or ~~has earlier been approved by him~~ *was approved by the commissioner prior to such creditor's use*; and

(b) the insurer has complied with this section with respect to the insurance.

(2) Except as provided in subsection (3), all policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders relating to consumer credit insurance delivered or issued for delivery in this state, and the schedules of premium rates or charges pertaining thereto, shall be filed by the insurer with the commissioner of insurance. Within ~~thirty (30)~~ *30* days after the filing of any form or schedule, ~~he~~ *the commissioner* shall disapprove it if the premium rates or charges are unreasonable in relation to the benefits provided under the form, or if the form contains provisions ~~which~~ *that* are unjust, unfair, inequitable~~,~~ or deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance code or of any rule or regulation promulgated thereunder.

(3) If a group policy has been delivered in another state, the forms to be filed by the insurer with the commissioner of insurance are the group certificates and notices of proposed insurance. ~~He~~ *The commissioner* shall approve them if:

(a) ~~They~~*Such group certificates and notices of proposed insurance* provide the information that would be required if the group policy were delivered in this state; and

(b) the applicable premium rates or charges do not exceed those established by his rules or regulations.

Sec. 95. K.S.A. 16a-4-301 is hereby amended to read as follows: 16a-4-301. (1) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless:

(a) The insurance covers a substantial risk of loss of or damage to property related to the credit transaction;

(b) the amount, terms, and conditions of the insurance are reasonable in relation to the character and value of the property insured or to be insured; and

(c) the term of the insurance is reasonable in relation to the terms of credit.

(2) The term of the insurance is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.

(3) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless property is purchased pursuant to a credit card or in a transaction pursuant to ~~open~~

~~end~~ *open-end* credit, or unless the amount financed exclusive of charges for the insurance is $900 or more, and the value of the property is $900 or more.

Sec. 96. K.S.A. 16a-4-304 is hereby amended to read as follows: 16a-4-304. A creditor shall not request cancellation of a policy of property or liability insurance except after the consumer's default or in accordance with a written authorization by the consumer, and in either case the cancellation ~~does~~ *shall* not take effect until written notice is delivered to the consumer or mailed to ~~him at his address as stated by him~~ *such consumer at the address provided*. The notice shall state that the policy may be cancelled on a date not less than ~~ten (10)~~ *10* days after the notice is delivered, or, if the notice is mailed, not less than ~~thirteen (13)~~ *13* days after it is mailed.

Sec. 97. K.S.A. 16a-5-103 is hereby amended to read as follows: 16a-5-103. (1) This section applies to a deficiency on a consumer credit sale of goods or services and on a consumer loan in which the lender is subject to defenses arising from sales ~~(K.S.A. 16a-3-405, and amendments thereto)~~; a consumer is not liable for a deficiency unless the creditor has disposed of the goods in good faith and in a commercially reasonable manner.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which ~~he~~ *the seller* has a security interest, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of a commercial unit of goods of which the cash sale price was $1,000 or less, and the seller is not obligated to resell the collateral unless the buyer has paid 60% or more of the cash price and has not signed after default a statement renouncing ~~his~~ *such buyer's* rights in the collateral.

(3) If the seller repossesses or voluntarily accepts surrender of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the cash price of the sale was $1,000 or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale, and the seller's duty to dispose of the collateral is governed by ~~the provisions on disposition of collateral (~~K.S.A. 84-9-610, and amendments thereto~~) of the uniform commercial code~~.

(4) If the lender takes possession or voluntarily accepts surrender of goods in which ~~he~~ *such lender* has a security interest to secure a debt arising from a consumer loan in which the lender is subject to defenses arising from sales ~~(~~K.S.A. 16a-3-405, and amendments thereto~~)~~, and the net proceeds of the loan paid to or for the benefit of the debtor were $1,000 or less, the debtor is not personally liable to the lender for the unpaid balance of the debt arising from the loan and the lender's duty

to dispose of the collateral is governed by ~~the provisions on disposition of collateral (~~K.S.A. 84-9-610, and amendments thereto~~) of the uniform commercial code~~.

(5) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to ~~open end~~ *open-end* credit, the allocation of payments to a debt shall be determined in the same manner as provided ~~for determining the amount of debt secured by various security interests (~~ *by* K.S.A. 16a-3-303, and amendments thereto~~)~~.

(6) The consumer may be liable in damages to the creditor if the consumer has wrongfully damaged the collateral or if, after default and demand, the consumer has wrongfully failed to make the collateral available to the creditor.

(7) If the creditor ~~elects to bring~~ *brings* an action against the consumer for a debt arising from a consumer credit sale of goods or services or from a consumer loan in which the lender is subject to defenses arising from sales ~~(K.S.A. 16a-3-405, and amendments thereto)~~, when under this section the creditor would not be entitled to a deficiency judgment if the creditor took possession of the collateral, and obtains judgment:

(a) The creditor may not take possession of the collateral, and

(b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

Sec. 98. K.S.A. 16a-5-107 is hereby amended to read as follows: 16a-5-107. (1) If it is the understanding of the creditor and the consumer ~~at the time an extension of credit is made~~ that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation~~,~~ or property of any person, the repayment of the extension of credit is unenforceable through civil judicial processes against the consumer.

(2) If ~~it is shown that~~ an extension of credit was made at an annual rate exceeding ~~thirty-six percent (36%)~~ *36%* calculated according to the actuarial method and that the creditor then had a reputation for the use or threat of use of violence or other criminal means to cause harm to the person, reputation~~,~~ or property of any person to collect extensions of credit or to punish the nonrepayment thereof, there is prima facie evidence that the extension of credit was unenforceable under subsection (1).

Sec. 99. K.S.A. 16a-5-108 is hereby amended to read as follows: 16a-5-108. (1) *The unconscionability of an act or practice is a question for the trier of fact.*

(2) With respect to a consumer credit transaction, if the trier of fact finds:

(a) The agreement ~~to have been~~ *was* unconscionable at the time it was made, or ~~to have been~~ *was* induced by unconscionable conduct, the court may refuse to enforce the agreement; or

(b) any clause of the agreement ~~to have been~~ *was* unconscionable at the time it was made, the court may refuse to enforce the agreement, ~~or~~ may enforce the remainder of the agreement without the unconscionable clause~~,~~ or may so limit the application of any unconscionable clause as to avoid any unconscionable result.

~~(2)~~*(3)* If it is claimed or appears to the trier of fact that the agreement or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

~~(3)~~*(4)* ~~For the purpose of this section,~~ A charge or practice expressly permitted by this act ~~is not~~ *shall not be* unconscionable.

Sec. 100. K.S.A. 16a-5-111 is hereby amended to read as follows: 16a-5-111. (1) ~~This section applies to consumer credit transactions~~ *After a consumer has been in default for 10 days for failure to make a required payment in a consumer credit transaction payable in installments, a creditor may give the consumer the notice described in this section. A creditor gives notice to the consumer under this section when the creditor delivers the notice to the consumer or delivers or mails the notice to the address of the consumer's residence.*

(2) *The notice shall be in writing and shall conspicuously state the following: The name, address and telephone number of the creditor to which payment is to be made, a brief description of the credit transaction, the consumer's right to cure the default, the amount of payment and date by which payment must be made to cure the default, and the consumer's possible liability for the reasonable costs of collection, including, but not limited to, court costs, either attorney fees or collection agency fees and any other information required by the administrator as set forth by rules and regulations or by administrative interpretation.*

(3) ~~Except as provided in subsection (3)~~*With respect to a consumer credit transaction payable in installments*, after a default consisting only of the consumer's failure to make a required payment ~~in a consumer credit transaction payable in installments~~, a creditor may neither accelerate maturity of the unpaid balance of the obligation nor take possession of collateral because of that default until 20 days after a notice of the consumer's right to cure ~~(K.S.A. 16a-5-110, and amendments thereto)~~ is given. Until 20 days after the notice is given, the consumer may cure all defaults consisting of a failure to make the required payment by tendering the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid ~~delinquency charges~~ *late fees*. Cure ~~restores~~ *shall restore* the consumer to the consumer's rights under the agreement as though the defaults had not occurred.

~~(3)~~*(4)* With respect to defaults on the same obligation after a creditor has once given a notice of consumer's right to cure ~~(K.S.A. 16a-5-110, and~~

~~amendments thereto)~~, this section gives the consumer no right to cure and imposes no limitation on the creditor's right to proceed against the consumer or the collateral.

(5) Unless the consumer voluntarily surrenders the collateral to the creditor, the creditor may take possession of the collateral without judicial process only if possession can be taken without entry into a dwelling and without the use of force or other breach of the peace.

(6) Nothing in this section shall prohibit a consumer from voluntarily surrendering the collateral of the consumer credit transaction and shall not prohibit the creditor from thereafter enforcing the creditor's security interest in the collateral at any time after surrender.

Sec. 101. K.S.A. 16a-5-201 is hereby amended to read as follows: 16a-5-201. (1) If a creditor has violated the provisions of this act applying to collection of excess charges or enforcement of rights ~~(subsection (4) of section 16a-1-201)~~, restrictions on interests in land as security ~~(section 16a-2-307)~~, limitations on the schedule of payments or loan terms for supervised loans ~~(section 16a-2-308)~~, attorney's fees ~~(section 16a-2-507)~~, security in sales and leases ~~(section 16a-3-301)~~, assignments of earnings ~~(section 16a-3-305)~~, authorizations to confess judgment ~~(section 16a-3-306)~~, certain negotiable instruments prohibited ~~(section 16a-3-307)~~, assignees subject to defenses ~~(section 16a-3-404)~~, credit card issuer subject to defenses ~~(section 16a-3-403)~~, or limitations on default charges ~~(section 16a-3-402)~~, the consumer ~~has a cause of action to~~ *may* recover actual damages and ~~in addition a right in an action other than~~ *except for* a class action ~~to recover from the person violating such provisions of this act~~ a penalty in an amount determined by the court not less than $100 nor more than $1,000. With respect to violations arising from sales or loans made pursuant to ~~open end~~ *open-end* credit, no action pursuant to this subsection may be brought more than two years after the violations occurred. With respect to violations arising from other consumer transactions, no action pursuant to this subsection may be brought more than one year after the due date of the last scheduled payment of the agreement.

(2) If a creditor has violated the provisions of this act applying to authority to make supervised loans ~~(section 16a-2-301)~~, the loan is void and the consumer is not obligated to pay either the amount financed or finance charge. If the consumer has paid any part of the amount financed or ~~of the~~ finance charge, the consumer has a right to recover the payment from the person violating this act or from an assignee of that person's rights who undertakes direct *or indirect* collection of payments or enforcement of rights arising from the debt *including, but not limited to, loans described in K.S.A. 16a-2-301(1), and amendments thereto*. With respect to violations arising from loans made pursuant to ~~open end~~ *open-end* credit, no action pursuant to this subsection may be brought more than two years

after the violation occurred. With respect to violations arising from other loans, no action pursuant to this subsection may be brought more than one year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid. Persons subject to the penalties in this subsection shall not include attorneys or collection agencies ~~who~~ *that* do not purchase a consumer obligation.

(3) A consumer is not obligated to pay a charge in excess of that allowed by this act, and if the consumer has paid an excess charge the consumer has a right to a refund of twice the excess charge. ~~A refund may be made by reducing the consumer's obligation by twice the amount of the excess charge.~~ If the consumer has paid an amount in excess of the lawful obligation under the agreement, the consumer may recover twice the excess amount from the person who made the excess charge or from an assignee of that person's rights who undertakes direct *or indirect* collection of payments from or enforcement of rights against debtors arising from the debt *including, but not limited to, loans described in K.S.A. 16a-2-301(1), and amendments thereto*. Persons subject to the penalties in this subsection shall not include attorneys or collection agencies who do not purchase a consumer obligation.

(4) If a creditor has contracted for or received a charge in excess of that allowed by this act, or if a consumer is entitled to a refund and a person liable to the consumer refuses to make a refund within a reasonable time after demand, the consumer may recover from the creditor or the person liable in an action ~~other than~~ *except for* a class action a penalty in an amount determined by the court not less than $100 or more than $1,000. With respect to excess charges arising from sales or loans made pursuant to ~~open end~~ *open-end* credit, no action pursuant to this subsection may be brought more than two years after the time the excess charge was made. With respect to excess charges arising from other consumer credit transactions, no action pursuant to this subsection may be brought more than one year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made. Persons subject to the penalties in this subsection shall not include attorneys or collection agencies who do not purchase a consumer obligation.

(5) Except as otherwise provided, no violation of the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, impairs rights on a debt.

(6) A creditor has no liability for a penalty under subsection (1) or subsection (4) if within 15 days after discovering an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the creditor notifies the person concerned of the error and corrects the error. If the violation consists of a prohibited agreement, giving the consumer a corrected copy of the writing containing the error is

sufficient notification and correction. If the violation consists of an excess charge, correction shall be made by an adjustment or refund.

(7) If the creditor establishes by a preponderance of evidence that a violation is unintentional or the result of a bona fide error of law or fact notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error, no liability is imposed under subsections (1), (2), and (3), the validity of the transaction is not affected, and no liability is imposed under subsection (4) except for refusal to make a refund.

(8) In an action in which it is found that a creditor has violated any provision of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, the court shall award to the consumer the costs of the action and to the consumer's attorneys their reasonable fees. Reasonable attorney's fees shall be determined by the value of the time ~~reasonably~~ expended by the attorney and not by the amount of the recovery on behalf of the consumer.

(9) A creditor who in good faith complies with a written administrative interpretation shall not be subject to any penalties under this section for any act done or omitted in conformity with such written administrative interpretation.

Sec. 102. K.S.A. 16a-5-203 is hereby amended to read as follows: 16a-5-203. (1) Except as otherwise provided in this section, a creditor who~~, in violation of the provisions of the rules and regulations adopted by the administrator pursuant to K.S.A. 16a-6-117, and amendments thereto,~~ fails to disclose information to a person entitled to the information under the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, *or under rules and regulations adopted by the administrator* is liable to that person in an amount equal to the sum of:

(a) Twice the amount of the finance charge in connection with the transaction, but the liability pursuant to this paragraph shall be not less than $200 or more than $2,000; and

(b) in the case of a successful action to enforce the liability under paragraph (a), the costs of the action together with reasonable attorney's fees as determined by the court.

(2) A creditor has no liability under this section if within 15 days after discovering an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay a credit service charge or loan finance charge in excess of the amount or percentage rate actually disclosed.

(3) A creditor may not be held liable in any action brought under this section for a violation of the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, if the creditor shows by a prepon-

derance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

(4) Any action which may be brought under this section against the original creditor in any credit transaction involving a security interest in land may be maintained against any subsequent assignee of the original creditor where the assignee, its subsidiaries, or affiliates were in a continuing business relationship with the original creditor either at the time the credit was extended or at the time of the assignment, unless the assignment was involuntary, or the assignee shows by a preponderance of evidence that it did not have reasonable grounds to believe that the original creditor was engaged in violations of this act and that it maintained procedures reasonably adapted to apprise it of the existence of the violations.

(5) No action pursuant to this section may be brought more than one year after the date of the occurrence of the violation.

(6) The liability of the creditor under this section is in lieu of and not in addition to the creditor's liability under the federal truth in lending act; no action with respect to the same violation may be maintained pursuant to both this section and the federal truth in lending act.

Sec. 103. K.S.A. 16a-5-301 is hereby amended to read as follows: 16a-5-301. (1) It is unlawful for any person to violate any of the provisions of this act, any rule and regulation adopted or order issued under this act. A conviction for an intentional violation is a class A nonperson misdemeanor. A second or subsequent conviction of this subsection is severity level 7 nonperson felony. No person may be imprisoned for the violation of this section if such person proves that such person had no knowledge of the rule and regulation or order.

(2) The criminal liability of a person under this section is in lieu of and not in addition to the creditor's criminal liability under the federal truth in lending act. No prosecution of a person with respect to the same violation may be maintained pursuant to both this section and the federal truth in lending act.

(3) A person, other than a supervised financial organization or an attorney or collection agency who does not purchase the credit obligation, who willfully engages in the business of entering into consumer credit transactions, or of taking assignments of rights against consumers arising therefrom and undertakes direct *or indirect* collection of payments or enforcement of these rights, without complying with the provisions of this act concerning notification (K.S.A. 16a-6-202, and amendments thereto) or payment of fees (K.S.A. 16a-6-203, and amendments thereto), is guilty of a class A misdemeanor and upon conviction thereof shall be punished in the manner provided by law.

Sec. 104. K.S.A. 16a-6-104 is hereby amended to read as follows: 16a-6-104. ~~This act shall be administered by the consumer credit commissioner of Kansas who is also referred to as the administrator.~~

(1) In addition to other powers granted by this act, the administrator ~~within the limitations provided by law~~ may:

(a) Receive and act on complaints, take action designed to obtain voluntary compliance with the provisions of K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto, or commence proceedings on the administrator's own initiative;

(b) ~~counsel~~*provide guidance to* persons and groups on their rights and duties under K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto;

(c) establish *or support* programs for the education of consumers with respect to credit practices ~~and problems and~~*:*

(A) As a condition in settlements of investigations or examinations, the administrator may ~~receive~~ *require* a payment designated for consumer education to be expended as directed by the administrator for such purpose; *and*

(B) the administrator may fund consumer education programs from operating funds in an amount up to 1% of operating funds.

(d) make studies appropriate to effectuate the purposes and policies of K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto;

(e) adopt, amend and revoke rules and regulations to carry out the specific provisions of K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto~~, and to implement the requirements of the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110-289)~~;

(f) issue, amend and revoke written administrative interpretations~~. Such written administrative interpretations shall be approved by the attorney general and published in the Kansas register within 15 days of issuance. The administrator shall annually publish all written administrative interpretations in effect~~;

(g) maintain offices within this state;~~ and~~

(h) appoint ~~any necessary attorneys, hearing examiners, clerks, and other~~ employees and agents and ~~fix their~~ *set such employees'* compensation, and authorize attorneys appointed under this section to appear for and represent the administrator in court;

(i) examine periodically at intervals the administrator deems appropriate the loans, business and records of every licensee~~, registrant or person filing notification pursuant to K.S.A. 16a-6-201 through 16a-6-203, and amendments thereto~~ *or consumer credit filer*, except licensees ~~which~~ *that* are supervised financial organizations. The official or agency responsible for the supervision of each supervised financial organization shall examine

the loans, business and records of each such organization in the manner and periodically at intervals prescribed by the administrator. In addition, for the purpose of discovering violations of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto, or securing information lawfully required, the administrator or the official or agency to whose supervision the organization is subject to K.S.A. 16a-6-105, and amendments thereto, may at any time investigate the loans, business and records of any supervised lender. For examination purposes the administrator shall have free and reasonable access to the offices, places of business and records of the ~~lender, registrant or person filing notification~~ *licensee or consumer credit filer* and the administrator may control access to any documents and records of a licensee~~, registrant or person filing notification under examination~~ *or consumer credit filer*;

(j) refer such evidence as may be available concerning violations of this act or of any rule and regulation or order to the attorney general or *in consultation with the attorney general to* the proper county or district attorney, who may in the prosecutor's discretion, with or without such a ~~reference~~ *referral*, institute the appropriate criminal proceedings under ~~this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the administrator prosecute or assist in the prosecution of such violation on behalf of the state. Upon approval of the administrator, such employee shall be appointed special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys, and such other powers and duties as are lawfully delegated to such special prosecutors by the attorney general or the county attorney or district attorney~~ *the laws of this state*;

(k) if deemed necessary by the administrator, require fingerprinting of any applicant, licensee, *owners or* members thereof if a copartnership or association, or officers and directors thereof if a corporation, or any agent or other person acting on their behalf. The administrator, or the administrator's designee, ~~may~~ *shall* submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation, or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions. For purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain with the individual states, the administrator 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;

(l) exchange information regarding the administration of this act with any agency of the United States or any state which regulates the licensee~~,~~ ~~registrant or person required to file notification,~~ or *consumer credit filer* who administers statutes, rules and regulations or other programs related to consumer credit and to enter into information sharing arrangements with other governmental agencies or associations representing governmental agencies which are deemed necessary or beneficial to the administration of this act;

(m)~~ 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 administrator or the administrator's designee and may be made a condition of the application approval and renewal;~~

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

~~(o)~~ use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing any information regarding ~~residential mortgage loan originator registration or~~ supervised lender licensing to and from any source so directed by the administrator;

~~(p)~~*(n)* 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 the act and to take such other actions as may be reasonably necessary to participate in the nationwide mortgage licensing system and registry. The administrator shall regularly report violations of law,~~ as well as~~ enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry~~, and make publicly available the proposed budget, fees, and audited financial statements of the nationwide mortgage licensing system and registry as may be prepared by the nationwide mortgage licensing system and registry and provided to the administrator;~~

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

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

~~(s)~~*(o)* require any licensee ~~or registrant~~ to file reports with the nationwide mortgage licensing system and registry in the form prescribed by the administrator or the administrator's designee.

(2) The administrator shall enforce the provisions of this act and the rules and regulations and interpretations adopted thereunder with respect to a creditor, unless the creditor's compliance is regulated exclusively or primarily by another state or federal agency.

(3) To keep the administrator's rules and regulations in harmony with the rules of administrators in other jurisdictions ~~which enact the revised uniform consumer credit code~~, the administrator, so far as is consistent with the purposes, policies and provisions of K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto, may:

(a) Before adopting, amending and revoking rules and regulations, advise and consult with administrators in other jurisdictions ~~which enact the uniform consumer credit code~~; and

(b) in adopting, amending and revoking rules and regulations, take into consideration the rules of administrators in other jurisdictions ~~which enact the revised uniform consumer credit code~~.

(4) Except for refund of an excess charge, no liability is imposed under K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto, for an act done or omitted in conformity with a rule and regulation or written administrative interpretation of the administrator 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.

(5) The administrator prior to December 1 of each year shall establish such fees as are authorized under the provisions of K.S.A. 16a-1-101 ~~to 16a-9-102, inclusive~~ *et seq.*, and amendments thereto, for the ensuing calendar year in such amounts as the administrator may determine to be sufficient to meet the budget requirements of the administrator for each fiscal year.

Sec. 105. K.S.A. 16a-6-105 is hereby amended to read as follows: 16a-6-105. (1) With respect to supervised financial organizations, the powers of examination and investigation ~~(K.S.A. 16a-2-305 and K.S.A. 16a-6-106, and amendments thereto)~~ and administrative enforcement ~~(K.S.A. 16a-6-108, and amendments thereto)~~ shall be exercised by the official or agency to whose supervision the organization is subject. Should a supervised fi-

nancial organization become licensed hereunder, a report of that portion of each examination made by the supervisory official or agency of such organization relating to compliance with the provisions of chapter 16a of the Kansas Statutes Annotated*, and amendments thereto,* shall be filed with the administrator. All other powers of the administrator under this act may be exercised by the administrator with respect to a supervised financial organization except that compliance with truth in lending shall be governed as set forth in ~~subsection (2) of~~ K.S.A. 16a-6-104*(2)*, and amendments thereto.

(2) If the administrator receives a complaint or other information concerning noncompliance with this act by a supervised financial organization, the administrator shall inform the official or agency having supervisory authority over the organization concerned. The administrator may request information about supervised financial organizations from the officials or agencies supervising them. If such officials or agencies have cause to believe the ~~licensee~~ *license* of any supervised financial organization subject to their supervision is subject to suspension or revocation for any reason stated in K.S.A. 16a-2-303, and amendments thereto, such official or agency shall notify the administrator and assist the administrator in the enforcement of this act.

(3) The administrator and any official or agency of this state having supervisory authority over a supervised financial organization are authorized and directed to consult and assist one another in maintaining compliance with the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*, and amendments thereto. They may jointly pursue investigations, prosecute suits, and take other official action, as they deem appropriate, if either of them otherwise is empowered to take the action.

Sec. 106. K.S.A. 16a-6-106 is hereby amended to read as follows: 16a-6-106. (1) The administrator may:

(a) Conduct ~~public or private~~ examinations or investigations within or outside of this state as necessary to determine whether any license should be granted, denied or revoked or whether any person has violated or is about to violate any provision of this act or any rule and regulation, administrative interpretation, or order hereunder~~,~~ or to aid in the enforcement of this act or in the prescribing of forms or adoption of rules and regulations; *and*

(b) require or permit any person to file a statement in writing, under oath or otherwise as the administrator determines, of all the facts and circumstances concerning any violation of this act or any rule and regulation, administrative interpretation or order hereunder.

(2) *All examination material shall be confidential by law and privileged and shall not be subject to the open records act, subpoena and discovery or admissible in evidence in any private civil action. The provisions*

of this subsection providing for the confidentiality of public records shall expire on July 1, 2030, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

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

~~(3)~~*(4)* In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the administrator, may issue to that person an order requiring the person to appear before the administrator, or the officer designated by the administrator, 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.

~~(4)~~*(5)* No person is excused from attending and testifying or from producing any document or record before the administrator or in obedience to the subpoena of the administrator or any officer designated by the the administrator or in any proceeding instituted by the administrator~~, 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~~.

~~(5)~~*(6)* The administrator may issue and apply to enforce subpoenas in this state at the request of ~~a consumer code administrator of~~ another state if the activities constituting an alleged violation for which the information is sought would be a violation of the ~~Kansas~~ uniform consumer credit code if the activities had occurred in this state.

~~(6)~~*(7)* If the person's records are located outside this state, the person shall either make them available to the administrator at a convenient location within this state or, at the administrator's discretion, pay the reason-

able and necessary expenses for the administrator or such administrator's representative to examine them at the place where they are maintained. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on the administrator's behalf.

~~(7)~~*(8)* The administrator may charge as costs of investigation or examination all reasonable expenses, including a per diem and actual travel and lodging expenses to be paid by the party or parties under investigation or examination. The administrator may maintain an action in any court to recover such costs.

(9) The administrator may enter into an informal agreement at any time with a person to resolve a matter arising under this act, rules and regulations adopted pursuant thereto or an order issued pursuant to this act. The adoption of an informal agreement authorized by this subsection shall not be subject to the provisions of K.S.A. 77-501 et seq. or 77-601 et seq., and amendments thereto. Any informal agreement authorized by this subsection shall not be considered an order or other agency action and shall be considered confidential examination material.

Sec. 107. K.S.A. 16a-6-108 is hereby amended to read as follows: 16a-6-108. (1) If the administrator determines after notice and opportunity for a hearing that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act or any rule and regulation, order or administrative interpretation hereunder, *including, but not limited to, refusal or failure to provide information requested by the administrator,* the administrator by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the administrator will carry out the purposes of this act.

(2) If the administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (1), the administrator may issue an emergency cease and desist order. Such order shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order the administrator shall promptly notify the person subject to the order that it has been entered, of the reasons and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusion of law vacate, modify or make permanent the order.

(3) If the administrator reasonably believes that a person has violated this act or a rule and regulation, order or administrative interpretation of the administrator under this act, the administrator, in addition to any specific power granted under this act, after notice and hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may require any or all of the following:

(a) Censure the person if the person is licensed under this act;

(b) issue an order against an applicant, ~~licensed person, residential mortgage loan originator registrant~~ *supervised loan licensee, consumer credit filer* or other person who knowingly violates this act or a rule and regulation, order or administrative interpretation of the administrator under this act, *including, but not limited to, refusal or failure to provide information requested by the administrator,* imposing a civil penalty up to a maximum of $5,000 for each violation. If any person is found to have knowingly or willfully violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed $5,000 for each such violation;

(c) revoke or suspend the person's license or registration or bar the person from subsequently applying for a license or registration under this act; or

(d) issue an order requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation.

(4) Any person aggrieved by a final order of the administrator may obtain a review of the order in accordance with the provisions of the Kansas judicial review act.

Sec. 108. K.S.A. 16a-6-109 is hereby amended to read as follows: 16a-6-109. If it is claimed that a person has engaged in conduct subject to an order by the administrator ~~(section 16a-6-108)~~ or by a court ~~(sections 16a-6-110 through 16a-6-112)~~, the administrator may accept an assurance in writing that the person will not engage in the conduct in the future. ~~If a person giving an assurance of discontinuance fails to comply with its terms, the assurance is evidence that prior to the assurance he engaged in the conduct described in the assurance~~ *Failure to abide by the assurance of discontinuance shall be evidence that the person engaged in the prior conduct described in the assurance.*

Sec. 109. K.S.A. 16a-6-110 is hereby amended to read as follows: 16a-6-110. The administrator may bring a civil action to restrain a person from violating the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq.*,

and amendments thereto, or any rules or regulations adopted thereunder and for other appropriate relief.

Sec. 110. K.S.A. 16a-6-111 is hereby amended to read as follows: 16a-6-111. (1) The administrator may bring a civil action to restrain a creditor or a person acting ~~in his~~ *on such creditor's or person's* behalf from engaging in a course of:

(a) Making or enforcing unconscionable terms or provisions of consumer credit transactions; *or*

(b) fraudulent or unconscionable conduct in inducing consumers to enter into consumer credit transactions.

(2) In an action brought pursuant to this section the court may grant relief only if the trier of the fact finds *that the*:

(a) ~~That the~~ Respondent has made unconscionable agreements or has engaged or is likely to engage in a course of fraudulent or unconscionable conduct;

(b) ~~that the~~ agreements or conduct of the respondent has caused or is likely to cause injury to consumers; and

(c) ~~that the~~ respondent has been able to cause or will be able to cause the injury primarily because the transactions involved are credit transactions.

(3) In applying this section, consideration shall be given to each of the following factors, among others:

(a) Belief by the creditor at the time consumer credit transactions are entered into that there was no reasonable probability of payment in full of the obligation by the consumer;

(b) in the case of consumer credit sales or consumer leases, knowledge by the seller or lessor at the time of the sale or lease of the inability of the buyer or lessee to receive substantial benefits from the property or services sold or leased;

(c) in the case of consumer credit sales or consumer leases, gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in credit transactions by like buyers or lessees;

(d) the fact that the creditor contracted for or received separate charges for insurance with respect to consumer credit sales or consumer loans with the effect of making the sales or loans, considered as a whole, unconscionable; and

(e) the fact that the respondent has knowingly taken advantage of the inability of the consumer reasonably to protect ~~his~~ *such consumer's* interests by reason of physical or mental infirmities, ignorance, illiteracy ~~or~~, inability to understand the language of the agreement~~,~~ or similar factors.

(4) In an action brought pursuant to this section, a charge or practice expressly permitted by this act is not in itself unconscionable.

Sec. 111. K.S.A. 16a-6-112 is hereby amended to read as follows: 16a-6-112. With respect to an action brought to enjoin violations of K.S.A. 16a-1-101 ~~through 16a-9-102 (section 16a-6-110)~~ *et seq., and amendments thereto,* or unconscionable agreements or fraudulent or unconscionable conduct ~~(section 16a-6-111)~~, the administrator may ~~apply to~~ *petition* the court for appropriate temporary relief against a respondent, pending final determination of proceedings. If the court finds after a hearing held upon notice to the respondent that there is reasonable cause to believe that the respondent is engaging in or is likely to engage in conduct sought to be restrained, it may grant any temporary relief or restraining order it deems appropriate.

Sec. 112. K.S.A. 16a-6-113 is hereby amended to read as follows: 16a-6-113. (1) After demand, the administrator may bring a civil action against a creditor for all amounts of money, other than penalties, which a consumer or class of consumers has a right *to recover* explicitly granted by the provisions of K.S.A. 16a-1-101 ~~through 16a-9-102 to recover~~ *et seq., and amendments thereto*. The court shall order amounts recovered or recoverable under this subsection paid to each consumer or set off against ~~his~~ *such consumer's* obligation. A consumer's action, other than a class action, takes precedence over a prior or subsequent action by the administrator with respect to the claim of that consumer. A consumer's class action takes precedence over a subsequent action by the administrator with respect to claims common to both actions but intervention by the administrator is authorized. An administrator's action on behalf of a class of consumers takes precedence over a consumer's subsequent class action with respect to claims common to both actions. When an action takes precedence over another action under this subsection, ~~to the extent appropriate~~ the other action may be stayed while the ~~precedent~~ *preceding* action is pending and dismissed if the ~~precedent~~ *preceding* action is dismissed with prejudice or results in a final judgment granting or denying the claim asserted in the ~~precedent~~ *preceding* action.

(2) The administrator may bring a civil action against a creditor or a person acting ~~in his~~ *on such creditor's or person's* behalf to recover a civil penalty for willfully violating this act, and if the court finds that the defendant has engaged in a course of repeated and willful violations of this act, it may assess a civil penalty of no more than ~~five thousand dollars ($5,000)~~ *$5,000 per violation*. Any civil action under this subsection shall be brought within two ~~(2)~~ years following the violation.

Sec. 113. K.S.A. 16a-6-115 is hereby amended to read as follows: 16a-6-115. The grant of powers to the administrator in this article does not affect remedies available to consumers under K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto,* or under other principles of law or equity.

Sec. 114. K.S.A. 16a-6-201 is hereby amended to read as follows: 16a-6-201. *(1)* This part applies to ~~a~~ *any* creditor engaged in this state in entering into consumer credit transactions and to any person who ~~takes~~ *accepts* assignments of and undertakes collection of payments from or ~~takes~~ assignments of and enforces rights against debtors arising from these transactions.

(2) This ~~part~~ *subsection* shall not apply to*:*

(a) Supervised financial organizations ~~(K.S.A. 16a-1-301, and amendments thereto)~~*; or*

(b) supervised loan licensees or those required to be licensed unless the entity:

(i) Enters into consumer credit sales or consumer leases;

(ii) assigns or accepts assignments of consumer credit sales or consumer leases; or

(iii) ~~. Nothing in this section shall be construed to require the payment of any fees required by this article by~~ attorneys or collection agencies ~~who~~ *that* receive ~~the same~~ *payment* for collection purposes.

Sec. 115. K.S.A. 16a-6-202 is hereby amended to read as follows: 16a-6-202. (1) ~~Persons subject to this part~~*Any person subject to K.S.A. 16a-6-201, and amendments thereto,* shall file ~~notification~~ *notice* with the administrator within 30 days after commencing business in this state, and, thereafter, in accordance with rules and regulations adopted by the administrator.

(2) If information in a ~~notification~~ *filing* becomes inaccurate ~~after filing~~, the ~~person filing the notification~~ *consumer credit filer* shall file ~~a corrected or~~ *an* amended ~~notification in such form and at such time~~ *filing* as prescribed by rules and regulations adopted by the administrator.

Sec. 116. K.S.A. 16a-6-203 is hereby amended to read as follows: 16a-6-203. (1) A ~~person required to file notification~~*consumer credit filer* shall on or before ~~April 30~~ *August 31* of each year pay to the administrator an annual fee in an amount established pursuant to ~~subsection (5) of~~ K.S.A. 16a-6-104*(5)*, and amendments thereto, for each business location for that year.

(2) ~~Persons required to file notification~~*Consumer credit filers* who are sellers, lessors or lenders shall pay an additional fee at the time and in the manner stated in subsection (1), in an amount established pursuant to ~~subsection (5) of~~ K.S.A. 16a-6-104*(5)*, and amendments thereto~~, for each $100,000, or part thereof, of the average unpaid balances, including unpaid scheduled periodic payments under consumer leases, arising from consumer credit transactions entered into in this state and held on the last day of each calendar month during the preceding calendar year and held either by the seller, lessor or lender, or by the immediate or a remote assignee who has not filed notification. The unpaid balances of~~

~~assigned obligations held by an assignee who has not filed notification are presumed to be the unpaid balances of the assigned obligations at the time of their assignment by the seller, lessor or lender~~.

(3) ~~Persons required to file notification~~*Consumer credit filers* who are assignees shall pay an additional fee at the time and in the manner stated in subsection (1), in an amount established pursuant to ~~subsection (5) of~~ K.S.A. 16a-6-104*(5)*, and amendments thereto~~, for each $100,000, or part thereof, of the average unpaid balances, including unpaid scheduled periodic payments payable by lessees, arising from consumer credit transactions entered into in this state taken by assignment and held on the last day of each calendar month during the preceding calendar year~~.

Sec. 117. K.S.A. 16a-6-401 is hereby amended to read as follows: 16a-6-401. This part applies to the administrator, prescribes the procedures to be observed by ~~him~~ *the administrator* in exercising ~~his~~ *such* powers under K.S.A. 16a-1-101 ~~through 16a-9-102~~ *et seq., and amendments thereto*, and supplements the ~~provisions of the part on~~ powers and functions of *the* administrator ~~(part 1) of this article and of the part on supervised lenders (part 3) of the article on finance charges and related provisions (article 2)~~ *under K.S.A. 16a-1-101 et seq., and amendments thereto. Subject to specific provisions found in K.S.A. 16a-1-101 et seq., and amendments thereto, the exercise of powers by the administrator shall be subject to the adoption of rules and regulations pursuant to K.S.A. 77-415 et seq., and amendments thereto, the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto*.

Sec. 118. K.S.A. 16a-6-403 is hereby amended to read as follows: 16a-6-403. (1) In addition to other rule-making requirements ~~imposed by law~~, the administrator may:

(a) Adopt as a rule a description of the organization of the administrator's office, stating the general course and method of the operations of the office and the methods whereby the public may obtain information or make submissions or requests;

(b) adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the administrator or by the office;

(c) make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted or used by the administrator; *and*

(d) make available for public inspection all final orders, decisions and opinions.

(2) No rule, order or decision of the administrator is valid or effective against any person or party, nor may it be invoked by the administrator for any purpose, until it has been made available for public inspection as

herein required. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

Sec. 119. K.S.A. 40-1209 is hereby amended to read as follows: 40-1209. Any director, officer or member of any such company, or any other person, may advance to such company any sum or sums of money necessary for the purposes of its business or to enable it to comply with any of the requirements of the laws of this state, and such moneys and such interest thereon as may have been agreed upon, not exceeding an amount equal to 1 ½ percentage points below the maximum rate of interest prescribed by ~~subsection (b) of~~ K.S.A. 16-207*(a)*, and amendments thereto, for real estate transactions. The rate of interest to be applied to any specific certificate of indebtedness shall be calculated using the most immediate prior month's usury rate published by the secretary of state in the Kansas register. The sum or sums of money advanced pursuant to this authorization and any interest thereon shall be payable only out of the surplus remaining after providing for all reserves and other liabilities, and shall not otherwise be a liability or claim against the company or any of its assets. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company, and the amount of such advance shall be reported in each annual statement. ~~*Provided, however,*~~ Such certificates of indebtedness shall not be issued nor retired and no interest thereon shall be paid without the approval of the commissioner of insurance who must be satisfied that all requirements of the law have been met.

Sec. 120. K.S.A. 9-2201, 9-2202, 9-2203, 9-2208, 9-2209, 9-2212, 9-2216, 9-2216a, 9-2220, 16-207, 16-207d, 16a-1-101, 16a-1-102, 16a-1-103, 16a-1-104, 16a-1-107, 16a-1-108, 16a-1-109, 16a-1-201, 16a-1-202, 16a-1-301, 16a-1-303, 16a-2-101, 16a-2-102, 16a-2-103, 16a-2-104, 16a-2-201, 16a-2-202, 16a-2-301, 16a-2-302, 16a-2-303, 16a-2-303a, 16a-2-304, 16a-2-307, 16a-2-308, 16a-2-309, 16a-2-310, 16a-2-401, 16a-2-402, 16a-2-403, 16a-2-404, 16a-2-501, 16a-2-502, 16a-2-504, 16a-2-505, 16a-2-506, 16a-2-507, 16a-2-508, 16a-2-510, 16a-3-101, 16a-3-102, 16a-3-201, 16a-3-202, 16a-3-203, 16a-3-203a, 16a-3-204, 16a-3-205, 16a-3-206, 16a-3-207, 16a-3-208, 16a-3-209, 16a-3-301, 16a-3-302, 16a-3-303, 16a-3-304, 16a-3-305, 16a-3-306, 16a-3-307, 16a-3-308, 16a-3-308a, 16a-3-309, 16a-3-402, 16a-3-403, 16a-3-404, 16a-3-405, 16a-4-101, 16a-4-102, 16a-4-103, 16a-4-104, 16a-4-105, 16a-4-106, 16a-4-107, 16a-4-108, 16a-4-109, 16a-4-110, 16a-4-111, 16a-4-112, 16a-4-201, 16a-4-202, 16a-4-203, 16a-4-301, 16a-4-304, 16a-5-101, 16a-5-102, 16a-5-103, 16a-5-107, 16a-5-108, 16a-5-110, 16a-5-111, 16a-5-112, 16a-5-201, 16a-5-203, 16a-5-301, 16a-6-101, 16a-6-102, 16a-6-104, 16a-6-105, 16a-6-106, 16a-6-108, 16a-6-109, 16a-6-110, 16a-6-111, 16a-6-112, 16a-6-113, 16a-6-115, 16a-6-117, 16a-6-201, 16a-6-202, 16a-6-203, 16a-6-401, 16a-6-

402, 16a-6-403, 16a-6-404, 16a-6-405, 16a-6-406, 16a-6-407, 16a-6-408, 16a-6-409, 16a-6-410, 16a-6-414, 16a-9-101, 16a-9-102 and 40-1209 are hereby repealed.

Sec. 121. This act shall take effect and be in force from and after January 1, 2025, and its publication in the statute book.

Approved March 29, 2024.

CHAPTER 7

HOUSE BILL No. 2587

AN ACT concerning drainage districts; relating to the governance thereof; authorizing the board of directors of such districts to hold executive sessions in accordance with the open meetings act; amending K.S.A. 24-416 and repealing the existing section.

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

Section 1. K.S.A. 24-416 is hereby amended to read as follows: 24-416. (a) The board of directors shall meet at least once each year. At such meeting, the board shall adopt a resolution stating the time, date and place of all regular meetings of the board. The resolution also shall state that if the regular meeting date occurs on a Sunday or on a legal holiday or a holiday specified by the board, the meeting shall be held at the same time and place on the next day following the holiday. The resolution shall be published once each week for two consecutive weeks in a newspaper of general circulation in the county in which the district is located. Meetings may be held on the call of the chairperson or at the request of a majority of the members of the board. Written notice of any special meeting shall be given to members of the board at least two days in advance of the meeting. The notice shall specify the time, place and purpose of the special meeting.

(b) A majority of directors shall constitute a quorum for the transaction of business, and in the absence of the presiding officer or secretary, a quorum at any meeting may select a presiding officer and a secretary pro tem. All meetings shall be open to the public ~~and no meeting shall be held by the board or any of the members thereof to which the public is denied admission and the board shall not at any time go into executive session~~, *except that the board may meet in executive session in accordance with K.S.A. 75-4319, and amendments thereto*.

Sec. 2. K.S.A. 24-416 is hereby repealed.

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

Approved March 29, 2024.

CHAPTER 8

SENATE BILL No. 399

AN ACT concerning motor vehicles; relating to vehicle dealers and salvage vehicle dealers; requiring that monthly reports be filed on the 25th day of the month; amending K.S.A. 8-2408 and repealing the existing section.

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

Section 1. K.S.A. 8-2408 is hereby amended to read as follows: 8-2408. Except as hereinafter provided, every person licensed as a dealer under provisions of this act shall:

(a) On or before the ~~20th~~ *25th* day of each month, file a monthly report, on a form prescribed and furnished by the division of vehicles, listing all sales or transfers, except sales or transfers by a first or second stage manufacturer to a vehicle dealer of new or used vehicles, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vehicle, and such other information as the division may require.

(b) Salvage vehicle dealers, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler and salvage vehicle pool shall, in addition to their monthly sales report for used vehicles, if applicable, on or before the ~~20th~~ *25th* day of each month file a monthly report on a form prescribed and furnished by the division, listing all vehicles for which the major component part containing the vehicle identification number or engine number if manufactured prior to 1981, has been disposed of or sold. The certificate of title or transfer certificate for all vehicles listed must accompany the monthly report.

(c) Make available during regular business hours to any employee of the division or any member of law enforcement for the purpose of investigation or inspection, all records concerning vehicles purchased, sold or exchanged during the preceding 12 months, including certificates of title on all vehicles owned by the dealership, except those titles surrendered pursuant to subsection (b).

(d) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the division and return the dealer's license and dealer plates, and the division upon receipt of such notice and plates shall cancel the dealer's license, except that such dealer may, upon payment of 50% of the annual fee to the division, have the license and dealer plates assigned to the purchaser of the business.

(e) In addition to the requirements of subsection (a), any dealer paying a commission or fee to a broker shall report to the division, on the monthly sales report, the name of the broker and the broker's license number.

(f) Dealers, licensed as brokers must in addition to the requirements of subsection (a) include on the monthly sales reports, the name of the seller, the transferor or dealer that owns the vehicle and whether the seller or the purchaser paid the broker's fee or commission.

(g) Lending agencies licensed under this act, which sell two or less repossessed vehicles a month, shall not be required to file the monthly reports under subsection (a), except that such lending agencies shall report annually, on a form prescribed and furnished by the division, the total number of sales or transfers of such vehicles.

Sec. 2. K.S.A. 8-2408 is hereby repealed.

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

Approved March 29, 2024.

CHAPTER 9

HOUSE BILL No. 2745

AN ACT concerning occupational licensing; relating to occupational licensing, certification and registration fees; providing that military spouses of active military servicemembers shall be exempted from all such fees; amending K.S.A. 2023 Supp. 48-3406 and repealing the existing section.

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

Section 1. K.S.A. 2023 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) A military spouse~~,~~ *or* military servicemember *who resides or plans to reside in this state due to the assigned military station of the individual or the individual's spouse;* or

(B) an individual who has established or intends to establish residency in this state.

(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. *An application by a military spouse of an active military servicemember shall be considered a "complete application" without the submission of fees, pursuant to the provisions of subsection (u).*

(3) "Electronic credential" or "electronic certification, license or registration" means an electronic method by which a person may display or transmit to another person information that verifies the status of a person's certification, licensure, registration or permit as authorized by a licensing body and is equivalent to a paper-based certification, license, registration or permit.

(4) "Licensing body" means an official, agency, board or other entity of the state that authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized.

(5) "Military servicemember" means a current member of any branch of the United States armed services, United States military reserves or national guard of any state or a former member with an honorable discharge.

(6) "Military spouse" means the spouse of a military servicemember.

(7) "Person" means a natural person.

(8) "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.

(9) "Scope of practice" means the procedures, actions, processes and work that a person may perform under a government issued license, registration or certification.

(10) "Verification system" means an electronic method by which the authenticity and validity of electronic credentials are verified.

(b) Notwithstanding any other provision of law, any licensing body shall, upon submission of a complete application, issue a paper-based and verified electronic license, registration or certification to an applicant as provided by this section, so that the applicant may lawfully practice the person's occupation. Any licensing body may satisfy any requirement under this section to provide a paper-based license, registration, certification or permit in addition to an electronic license, registration, certification or permit by issuing such electronic credential to the applicant in a format that permits the applicant to print a paper copy of such electronic credential. Such paper copy shall be considered a valid license, registration, certification or permit for all purposes.

(c) An applicant who holds a valid current license, registration or certification in another state, district or territory of the United States shall receive a paper-based and verified electronic license, registration or certification:

(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 license, registration or certification within 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 applicant:

(A) Holds a valid current license, registration or certification in another state, district or territory of the United States with licensure, reg-

istration or certification requirements that the licensing body determines 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 applicant seeks licensure, registration or certification;

(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 that would constitute grounds for disciplinary action in a Kansas practice act;

(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

(H) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate.

Upon receiving 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 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 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. The probationary 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 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, monitoring or continuing education as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice in a manner that protects the health and safety of the public, as provided by subsection (j).

(e) 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 an applicant's license, registration or certificate in the applicant's state of residence or any jurisdiction in which the applicant held a license, registration or certificate shall automatically cause the same revocation or suspension of such applicant's license, registration or certificate in Kansas. No hearing shall be granted to an applicant where such 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 applicant's license, registration or

certificate by the applicant's state of residence or jurisdiction in which the applicant held a license, registration or certificate.

(h) In the event the licensing body determines that the license, registration or certificate 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 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 shall 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 were 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.

(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.

(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) Not later than January 1, 2025, licensing bodies shall provide paper-based and verified electronic credentials to persons regulated by the licensing body. 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.

(p) On or before January 1, 2025, and subject to appropriations therefore, the secretary of administration shall develop and implement a uniform or singular license verification portal for the purpose of verifying or reporting license statuses such as credentials issued, renewed, revoked or suspended by licensing bodies or that have expired or otherwise changed in status. The secretary of administration may utilize the services or facilities of a third party for the central electronic record system. The central electronic record system shall comply with the requirements adopted by the information technology executive council pursuant to K.S.A. 75-7203, and amendments thereto. Beginning January 1, 2025, each licensing body shall be able to integrate with the uniform or singular license verification portal in the manner and format required by the secretary of administration indicating any issuance, renewal, revocation, suspension, expiration or other change in status of an electronic credential that has occurred. No charge for the establishment or maintenance of the uniform or singular license verification portal shall be imposed on any licensing body or any person with a license, registration, certification or permit issued by a

licensing body. The centralized electronic credential data management systems shall include an instantaneous verification system that is operated by the licensing body's respective secretary, or the secretary's designee, or the secretary's third-party agent on behalf of the licensing body for the purpose of instantly verifying the authenticity and validity of electronic credentials issued by the licensing body. Centralized electronic credential data management systems shall maintain an auditable record of credentials issued by each licensing body.

(q) Nothing in this section shall be construed as prohibiting or preventing a licensing body from developing, operating, maintaining or using a separate electronic credential system of the licensing body or of a third party in addition to making the reports to the central electronic record system required by subsection (p) or participating in a multistate compact or a reciprocal licensure, registration or certification process as long as the separate electronic credential system of the licensing body integrates with the uniform or singular license verification portal.

(r) Each licensing body shall adopt rules and regulations necessary to implement and carry out the provisions of this section.

(s) 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, or to the certification of law enforcement officers pursuant to the Kansas law enforcement training act, K.S.A. 74-5601 et seq., and amendments thereto.

(t) 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.

(u) *Notwithstanding any other provision of law to the contrary, applicants who are military spouses of active military service members shall be exempt from all fees assessed by any licensing body to obtain an occupational credential in Kansas and renew such credential including initial or renewal application, licensing, registration, certification, endorsement, reciprocity or permit fees and any criminal background report fees, whether assessed by the licensing body or another agency. Licensing bodies shall adopt rules and regulations to implement the provisions of this subsection.*

(v) This section shall apply to all licensing bodies not excluded under subsection (s), 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 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 (t);

(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 (t); and

(21) the state board of veterinary examiners.

~~(v)~~*(w)* 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.

~~(w)~~*(x)* Commencing on July 1, 2021, and each year thereafter, each licensing body listed in subsection (u)(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. 2023 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 March 29, 2024.

CHAPTER 10

HOUSE BILL No. 2525

AN ACT concerning the department of health and environment; relating to fees established for the regulation of wastewater treatment facilities, water wells and underground injection control wells; providing for additional sources of revenue for the water program management fund; authorizing the secretary of health and environment to establish additional fees for the regulation of underground injection control wells; amending K.S.A. 65-166b, 65-4514 and 82a-1206 and K.S.A. 2023 Supp. 55-1,117 and repealing the existing sections.

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

Section 1. K.S.A. 2023 Supp. 55-1,117 is hereby amended to read as follows: 55-1,117. (a) As used in this section~~,~~ *and* K.S.A. 65-171d and ~~K.S.A.~~ 55-1,118 through 55-1,122, and amendments thereto:

(1) "Company or operator" means any form of legal entity including, but not limited to, a corporation, limited liability company and limited or general partnerships.

(2) "Secretary" means the secretary of health and environment.

(3) "Underground porosity storage" means the storage of hydrocarbons in underground, porous and permeable geological strata ~~which~~ *that* have been converted to hydrocarbon storage.

(b) For the purposes of protecting the health, safety and property of the people of the state, and preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, the secretary of health and environment shall adopt separate and specific rules and regulations establishing requirements, procedures and standards for the following:

(1) Salt solution mining;

(2) the safe and secure underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in underground porosity storage; and

(3) the safe and secure underground storage of natural gas in bedded salt.

(c) Such rules and regulations shall include, but not be limited to:

(1) Site selection criteria;

(2) design and development criteria;

(3) operation criteria;

(4) casing requirements;

(5) monitoring and measurement requirements;

(6) safety requirements, including public notification;

(7) closure and abandonment requirements, including the financial requirements of subsection (f); and

(8) ~~long term~~ *long-term* monitoring.

(d) (1) The secretary may adopt rules and regulations establishing fees for the following services:

(A) Permitting, monitoring and inspecting salt solution mining operators;

(B) permitting, monitoring and inspecting underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in underground porosity storage; and

(C) permitting, monitoring and inspecting underground storage of natural gas in bedded salt.

(2) The fees collected under this section by the secretary shall be remitted by the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the subsurface hydrocarbon storage fund.

(e) The secretary or the secretary's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the secretary or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

(f) Any company or operator receiving a permit under the provisions of this act shall demonstrate annually to the department of health and environment evidence, satisfactory to the department, that such permit holders have financial ability to cover the cost of closure of such permitted facility as required by the department.

(g) The secretary may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of rules and regulations pursuant to this section.

(h) ~~(1) For a period of two years from July 1, 2001, or until the rules and regulations provided for in subsection (b)(3) are adopted, the injection of working natural gas into underground storage in bedded salt is prohibited, except that cushion gas may be injected into existing underground storage in bedded salt. Natural gas currently stored in such underground storage may be extracted.~~

~~(2) Any existing underground storage of natural gas in bedded salt shall comply with the rules and regulations adopted under this section prior to the commencement of injection of working natural gas into such underground storage.~~

~~(3) Rules and regulations adopted under subsection (b)(3) shall be adopted on or before July 1, 2003.~~

~~(i)~~ No hydrocarbon storage shall be allowed in any underground formation if water within the formation contains less than 5,000 milligrams per liter chlorides.

(i) (1) The secretary shall adopt rules and regulations to establish fees for permitting, monitoring, testing, inspecting and regulating underground injection control class I wells. Such fees shall not exceed:

(A) $6,500 per active, hazardous waste injection well;

(B) $4,500 per active, non-hazardous waste injection well; or

(C) $1,000 for any hazardous or non-hazardous waste injection well in monitoring or inactive status.

(2) The secretary shall provide for a reduction in such fees for facilities already subject to fees under subsection (d).

(j) The secretary shall adopt rules and regulations to establish fees for permitting, monitoring, testing, inspecting and regulating underground injection control class V wells, but in no case shall such fees be established for small-capacity, sanitary septic systems, including single family residential septic systems and non-residential septic systems that are used solely for sanitary waste. Such fees shall not exceed $2,000 per well.

(k) The secretary shall remit all moneys collected from fees established in subsections (i) and (j) 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 subsurface hydrocarbon storage fund established pursuant to K.S.A. 55-1,118, and amendments thereto.

Sec. 2. K.S.A. 65-166b is hereby amended to read as follows: 65-166b. (a) There is hereby created in the state treasury the water program management fund. The secretary 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:

(1) Water pollution control permit system fees imposed pursuant to K.S.A. 65-166a, and amendments thereto;

(2) *operators of water supply system and wastewater treatment facility certification fees imposed pursuant to K.S.A. 65-4513, and amendments thereto;*

(3) water well contractor fees imposed pursuant to K.S.A. 82a-1206, and amendments thereto;

(4) interest attributable to investment of moneys in the water program management fund;

~~(3)~~*(5)* gifts, grants, reimbursements or appropriations intended to be used for the purposes of the fund, but excluding federal grants and cooperative agreements; and

~~(4)~~*(6)* any other moneys provided by law.

Upon receipt of each such remittance, the state treasurer shall deposit in the state treasury any amount remitted pursuant to this subsection to the credit of the water program management fund.

(b) Moneys in the water program management fund shall be expended for the following purposes:

(1) Monitoring and investigating the quality of waters of the state;

(2) payment of the state's share of the clean water act matching costs, as required by the federal clean water act, 33 U.S.C. § 1256(d);

(3) payment for emergency action by the secretary as necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release from a wastewater treatment facility;

(4) payment of the administrative, technical and legal costs incurred by the secretary in carrying out the provisions of K.S.A. 65-159 through 65-171y, *65-4501 through 65-4517 and 82a-1201 through 82a-1219,* and amendments thereto, including the cost of any additional employees or increased general operating costs of the department attributable therefore; and

(5) development of educational materials and programs for informing the public about water issues.

(c) Expenditures from the water program management 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 designated by the secretary.

(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 water program management fund interest earnings based on:

(1) The average daily balance of moneys in the water program management fund for the preceding month; and

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

(e) The water program management fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(f) The secretary shall prepare and deliver to the legislature, on or before the first day of each regular legislative session, a report ~~which~~ *that* summarizes all expenditures from the water program management fund, fund revenues and recommendations regarding the adequacy of the fund to support necessary water program management programs.

Sec. 3. K.S.A. 65-4514 is hereby amended to read as follows: 65-4514. ~~(a)~~ The secretary shall remit all moneys received by or for the secretary from fees, charges or penalties *from the certification of operators of water supply systems and wastewater treatment facilities under the provisions of this act and the rules and regulations adopted hereunder* to the

state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~state general fund~~ *water program management fund established pursuant to K.S.A. 65-166b, and amendments thereto*.

~~(b) On July 1, 1983, the director of accounts and reports shall transfer all moneys in the certification of operators of water supply systems and wastewater treatment facilities fee fund to the state general fund. All liabilities of the certification of operators of water supply systems and wastewater treatment facilities fee fund are hereby transferred to and imposed upon the state general fund. The certification of operators of water supply systems and wastewater treatment facilities fee fund is hereby abolished.~~

Sec. 4. K.S.A. 82a-1206 is hereby amended to read as follows: 82a-1206. (a) Every well contractor desiring to engage in the business of constructing, reconstructing or treating water wells in this state shall make initial application for a license to the secretary. Every contractor making such application shall set out such information as may be required upon forms to be adopted and furnished by the secretary. The secretary shall charge an application fee as established by rules and regulations for the filing of such initial application by a contractor, and the secretary shall not act upon any application until such application fee has been paid.

(b) All application fees and license fees collected hereunder 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. On July 1, 1983, the director of accounts and reports shall transfer all moneys in the water well contractors licensing fund to the state general fund. All liabilities of the water well contractors licensing fund are hereby transferred to and imposed upon the state general fund. The water well contractors licensing fund is hereby abolished~~ *water program management fund established pursuant to K.S.A. 65-166b, and amendments thereto*.

(c) A license to construct water wells shall be issued to any applicant if, under the standards set forth in K.S.A. 82a-1207, and amendments thereto, the secretary shall determine such applicant is qualified to conduct water well construction operations. In the granting of such licenses due regard shall be given to the interest of the state of Kansas in the protection of its underground water resources. Application fees paid hereunder shall be retained by the secretary whether such initial license is issued or denied, but if denied, the license fee shall be refunded.

(d) Applicants for licenses hereunder who are engaged in business as water well contractors in this state, if incorporated, shall submit evidence

of current good standing with the registration requirements for corporations of the secretary of state.

Sec. 5. K.S.A. 65-166b, 65-4514 and 82a-1206 and K.S.A. 2023 Supp. 55-1,117 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 29, 2024.

CHAPTER 11

HOUSE BILL No. 2561

AN ACT concerning financial institutions; relating to credit unions; authorizing a domestic credit union to do business outside the state; providing civil penalties for certain violations; allowing informal agreements with the credit union administrator; eliminating the requirement to submit duplicate certificates of organization and bylaws; establishing appeals procedures for suspension of credit and supervisory committee members; requiring members of the merging credit union to approve a merger of credit unions; amending K.S.A. 17-2201, 17-2208 and 17-2228 and repealing the existing sections.

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

New Section 1. (a) A domestic credit union may do business outside of the state if permitted by the laws of that jurisdiction.

(b) This section shall be a part of and supplemental to the state credit union code.

New Sec. 2. (a) After providing notice and an opportunity for a public hearing in accordance with the Kansas administrative procedure act, the administrator may assess against and collect a civil money penalty from any credit union that:

(1) Engages or participates in any unsafe or unsound practice in connection with a credit union; or

(2) violates or knowingly permits any person to violate the provisions of:

(A) The state credit union code;

(B) rules and regulations promulgated pursuant to the state credit union code; or

(C) any lawful order of the administrator.

(b) The civil money penalty shall not exceed $1,000 per day such violation continues. No civil money penalty shall be assessed for the same act or practice if another governmental agency has taken similar action against the credit union. In determining the amount of the civil money penalty to be assessed, the administrator shall consider:

(1) The good faith of the credit union;

(2) the gravity of the violation;

(3) any previous violations by the credit union;

(4) the nature and extent of any past violations; and

(5) such matters as the administrator deems appropriate.

(c) Upon waiver by the respondent of the right to a public hearing concerning an assessment of a civil money penalty, the hearing or a portion thereof may be closed to the public when concern arises about the prompt withdrawal of moneys from or the safety and soundness of the credit union.

(d) This section shall be a part of and supplemental to the state credit union code.

New Sec. 3. (a) The administrator may enter into an informal agreement with any credit union for a plan of action to address possible safety or soundness concerns, violations of law or any weakness displayed by the credit union if the administrator determines that the credit union displays:

(1) Possible safety and soundness concerns or is violating, has violated or is about to violate any law, rules and regulations or order of the administrator resulting in a less than satisfactory condition but not to a degree requiring a formal administrative action; or

(2) any weakness that if not properly addressed and corrected would reasonably be expected to result in future safety and soundness concerns, violations of law or rules and regulations and further deterioration in the condition of the credit union.

(b) The adoption of an informal agreement authorized by this section shall not be subject to the provisions of K.S.A. 77-501 et seq. or K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement authorized by this section shall not be considered an order or any other agency action and shall be considered confidential examination material pursuant to K.S.A. 17-2227, and amendments thereto.

(c) This section shall be a part of and supplemental to the state credit union code.

Sec. 4. K.S.A. 17-2201 is hereby amended to read as follows: 17-2201. (a) Any seven persons who are residents of the state of Kansas may apply to the administrator of the credit union department for permission to organize a credit union by signing ~~in duplicate~~ a certificate of organization and entering into articles of incorporation, in which they shall bind themselves to comply with its requirements and with all the laws, rules and regulations applicable to credit unions. The articles of incorporation shall set forth:

(1) The name of the proposed credit union, which shall contain the words "credit union" and shall not be the same as that of any other credit union in this state.

(2) The names and addresses of the subscribers to the articles of incorporation, and the number of shares subscribed by each.

(3) A statement that organization as a credit union is desired under the state credit union code, the par value of the shares and the manner in which the par value of shares may be changed from time to time.

(4) The address, which shall include the street, number, city and county of the corporation's registered office in this state and the name of its resident agent at such address.

(b) At the time of filing the articles of incorporation with the administrator, the organizers shall submit~~, in duplicate, sets of~~ bylaws ~~which~~ *that* shall provide:

(1) The date of the first annual meeting, the manner in which subsequent annual meeting dates shall be determined, the manner of notification of meetings and conducting the meetings, the number of members constituting a quorum and regulations as to voting.

(2) The number of directors, which shall not be less than five, all of whom must be members, their powers and duties, together with the duties of officers elected by the board of directors.

(3) The qualifications for membership.

(4) The number of members of the credit committee and of the supervisory committee, which shall not be less than three each, and their respective powers and duties.

(5) The conditions under which shares may be issued.

(c) The administrator shall approve the articles of incorporation, if they are in conformity with this act and the bylaws, if satisfied that the proposed field of operation is favorable to the success of such credit union, and that the standing of the proposed organizers is such as to give assurance that its affairs will be properly administered. If the administrator approves the articles of incorporation, the administrator shall issue to the proposed organizers a certificate of approval annexed to the ~~duplicate of the~~ articles of incorporation and of the bylaws. The articles of incorporation, with the certificate of approval annexed, shall be executed and filed and become effective in the manner prescribed in the general corporation code. The copy of the articles of incorporation filed with the secretary of state shall be accompanied by the fee prescribed by K.S.A. 17-7506, and amendments thereto. ~~The articles of incorporation of any credit union approved as provided in this section by the secretary of state in the same manner as other domestic corporations are approved whether or not acted upon by the charter board.~~

Sec. 5. K.S.A. 17-2208 is hereby amended to read as follows: 17-2208. (a) Annually the members of the credit union shall elect members of a board of directors as shall be provided in the bylaws. The bylaws shall state the manner of appointment or election of a supervisory committee. If the bylaws provide for a credit committee, the credit committee may be appointed by the board of directors or elected by the members of the credit union. All directors and committee members shall be chosen from the membership. Directors and committee members shall hold office for such terms as may be provided in the bylaws.

(b) One member of the supervisory committee may be a director other than the treasurer. Regular terms of supervisory committee members shall be for such term as shall be provided in the bylaws and until the selection and qualification of their successors.

(c) All members of the board and committees and all officers shall be sworn and shall hold their several offices for such terms as may be provid-

ed in the bylaws. The oath shall be subscribed by the individual taking it and certified by the officer before whom it is taken and shall immediately be transmitted to the administrator and filed and preserved in the administrator's office.

(d) The board of directors may suspend or remove any or all members of the credit and supervisory committees for failure to perform their duties. *The suspended committee member may appeal their suspension. Such appeal shall be acted upon by the members of the credit union at a meeting of the members that shall be held within 60 days after such suspension. Any person suspended shall have the right to appear and be heard at such meeting.* Any vacancy shall be filled in accordance with the credit union's bylaws.

Sec. 6. K.S.A. 17-2228 is hereby amended to read as follows: 17-2228. *(a)* Any credit union, with the approval of the administrator, may merge with another credit union under the charter of such other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the members of ~~each such~~ *the merging* credit union organized under the provisions of this act, either by the affirmative vote of a majority of those members present at a meeting of its members duly called for such purpose or by the affirmative vote in writing of a majority of its members who participate in the vote on the merger plan without a meeting. After such agreement by the directors and approval of the members of ~~each~~ *the merging* credit union organized under the provisions of this act, the president or chairperson of the board and secretary of each credit union organized under the provisions of this act, shall execute a certificate of merger that shall set forth the following:

~~(a)~~*(1)* The time and place of the meeting of the board of directors at which the plan was agreed upon;

~~(b)~~*(2)* the vote in favor of adoption of the plan;

~~(c)~~*(3)* a copy of the resolution or other action by which the plan was agreed upon;

~~(d)~~*(4)* the time and place of the meeting of the members at which the plan agreed upon was approved; and

~~(e)~~*(5)* the vote by which the plan was approved by the members.

(b) Such certificate of merger, a copy of the plan of merger agreed upon, and any necessary approvals or consents for a merging credit union organized under the provisions of any other jurisdiction shall be forwarded to the administrator. Upon receipt of these documents, the administrator shall determine whether the merger meets the statutory requirements for field of membership set forth in K.S.A. 17-2205, and amendments thereto. If the merger is approved, a copy of the certificate, certified by the administrator, shall be returned to the merging credit unions within

30 days. The date of certification of the merger by the administrator shall constitute the date of approval. Upon any such merger so effected, all property, property rights and interest of the merged credit union shall vest in the continuing credit union without deed, endorsement or other instrument of transfer, and all debts, obligations and liabilities of the merged credit union shall be deemed to have been assumed by the continuing credit union under whose charter the merger was effected.

(c) This section shall be construed, whenever possible, to permit a credit union chartered under any other act to merge with one chartered under this act or to permit one chartered under this act to merge with one chartered under any other act. The charter of the terminating credit union shall, upon merger, be canceled and voided by operation of law.

Sec. 7. K.S.A. 17-2201, 17-2208 and 17-2228 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 29, 2024.

CHAPTER 12

SENATE BILL No. 424

AN ACT concerning the Kansas plane coordinate system act; providing for geographic positions or locations of points within the state of Kansas; amending K.S.A. 58-20a01, 58-20a02, 58-20a03, 58-20a04, 58-20a05 and 58-20a07 and repealing the existing sections; also repealing K.S.A. 58-20a06.

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

New Section 1. The provisions of this act shall not be construed to prohibit the appropriate use of other datums and other geodetic reference networks, established by a state agency or county, such as the Kansas regional coordinate system, which was developed and implemented by the Kansas department of transportation and is based upon the North American datum of 1983.

New Sec. 2. The Kansas coordinate systems of 1983 and 1927 were established for defining and stating the geographic positions or locations of points on the surface of the earth within the state of Kansas. The 1983 system is based on the geodetic reference system 1980 ellipsoid of the North American datum of 1983 and was adopted in K.S.A. 58-20a06, prior to its repeal. The 1927 system is based on the Clarke 1866 ellipsoid of the North American datum of 1927 and was not adopted in Kansas statute but was widely used in Kansas prior to adoption of the 1983 system. Both systems are divided into a north zone and a south zone. The area north of the south line of the following counties constitutes the north zone: Wallace, Logan, Gove, Trego, Ellis, Russell, Ellsworth, Saline, Dickinson, Morris, Wabaunsee, Shawnee, Douglas and Johnson. The area south of the north line of the following counties constitutes the south zone: Greeley, Wichita, Scott, Lane, Ness, Rush, Barton, Rice, McPherson, Marion, Chase, Lyon, Osage, Franklin and Miami. The plane coordinate values of a point on the earth's surface, to be used to express the geographic position or location of such point in the appropriate zone of the Kansas coordinate systems of 1983 and 1927, consist of two distances, expressed in feet and decimals of a foot or meters and decimals of a meter. If the values are expressed in feet, a definition of one foot equals 1200/3937 meter exactly shall be used as the standard foot for the Kansas coordinate systems of 1983 and 1927. One of the distances, known as the "Northing" or "N" for the 1983 system, or "y" for the 1927 system, gives the position in a north and south direction. The other distance, known as the "Easting" or "E" for the 1983 system, or "x" for the 1927 system, gives the position in an east and west direction. For purposes of more precisely defining the Kansas coordinate systems of 1983 and 1927, the following definitions shall apply:

(a) The Kansas coordinate systems of 1983 and 1927 north zone (zone code 1501) means a Lambert conformal conic projection, having standard parallels at north latitudes 38 degrees 43 minutes and 39 degrees 47 minutes along which parallels the scale is exact. The origin of coordinates is at the intersection of the meridian 98 degrees zero minutes west of Greenwich and the parallel 38 degrees 20 minutes north latitude. For the 1983 system, this origin is given the coordinates N = 0 meters and E = 400,000 meters. For the 1927 system, this origin is given the coordinates y = 0 feet and x = 2,000,000 feet.

(b) The Kansas coordinate systems of 1983 and 1927 south zone (zone code 1502) means a Lambert conformal conic projection, having standard parallels at north latitudes 37 degrees 16 minutes and 38 degrees 34 minutes along which parallels the scale is exact. The origin of coordinates is at the intersection of the meridian 98 degrees 30 minutes west of Greenwich and the parallel 36 degrees 40 minutes north latitude. For the 1983 system, this origin is given the coordinates N = 400,000 meters and E = 400,000 meters. For the 1927 system, this origin is given the coordinates y = 0 feet and x = 2,000,000 feet.

New Sec. 3. The provisions of K.S.A. 58-20a01 through 58-20a08, and sections 1 through 3, and amendments thereto, shall be known and may be cited as the Kansas plane coordinate system act.

Sec. 4. K.S.A. 58-20a01 is hereby amended to read as follows: 58-20a01. ~~The system of plane coordinates which has been established by the national ocean survey/national geodetic survey (formerly the United States coast and geodetic survey) or its successors for defining and stating the geographic positions or locations of points on the surface of the earth within the state of Kansas shall be known as the Kansas coordinate system of 1983.~~

~~For the purpose of the use of this system, the state is divided into a north zone and a south zone.~~

~~The area now included north of the south line of the following counties shall constitute the north zone: Wallace, Logan, Gove, Trego, Ellis, Russell, Ellsworth, Saline, Dickinson, Morris, Wabaunsee, Shawnee, Douglas and Johnson.~~

~~The area now included south of the north line of the following counties shall constitute the south zone: Greeley, Wichita, Scott, Lane, Ness, Rush, Barton, Rice, McPherson, Marion, Chase, Lyon, Osage, Franklin and Miami~~ *The most recent system of plane coordinates established by the national oceanic and atmospheric administration's national geodetic survey, or a successor agency, based on the national spatial reference system, for defining and stating the geographic positions or locations of points on, within or above the surface of the earth within the state of Kansas are hereafter to be known and designated as the Kansas plane coordinate system.*

Sec. 5. K.S.A. 58-20a02 is hereby amended to read as follows: 58-20a02. ~~As established for use in the north zone, the Kansas coordinate system of 1983 shall be named. In any land description in which it is used, it shall be designated the "Kansas coordinate system 1983 north zone."~~

~~As established for use in the south zone, the Kansas coordinate system of 1983 shall be named. In any land description in which it is used, it shall be designated the "Kansas coordinate system 1983 south zone."~~ *The Kansas plane coordinate system shall be named in any land description in which it is used, and the zone used shall be specified in the description, and if applicable, the geodetic datum and the epoch of the coordinates in decimal years.*

Sec. 6. K.S.A. 58-20a03 is hereby amended to read as follows: 58-20a03. The plane coordinate values for a point on the earth's surface used to express the geographic position or location of such point in the appropriate zone of ~~this~~ *the Kansas plane coordinate* system, shall consist of two distances expressed in *feet and decimals of a foot or* meters and decimals of a meter ~~when using the Kansas coordinate system of 1983. One of the distances, to be known as the "Northing" or "N" shall give the position in a north-and-south direction; the other, to be known as the "Easting" or "E" shall give the position in an east-and-west direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the North American national geodetic horizontal network as published by the national ocean survey/national geodetic survey (formerly the United States coast and geodetic survey), or its successors, and whose plane coordinates have been computed on the system defined in the act. Any such station or point may be used for establishing a survey connection to the Kansas coordinate system of 1983~~. *If the values are expressed in feet, a definition of one foot equals 0.3048 meter exactly is used as the standard foot for the Kansas plane coordinate system. One of the two distances, to be known as the east or x-coordinate, gives the distance east of the y-axis. The other distance, to be known as the north or y-coordinate, gives the distance north of the x-axis. The y-axis of any zone is parallel with the central meridian of that zone. The x-axis of any zone is at right angles to the central meridian of that zone. Height is the coordinate value of the vertical elements of the national spatial reference system expressed in feet or meters and identified as ellipsoid height or orthometric height.*

Sec. 7. K.S.A. 58-20a04 is hereby amended to read as follows: 58-20a04. Descriptions of tracts of land by reference to subdivisions, lines or corners of the United States public land survey, or other original pertinent surveys, are hereby recognized as the basic and prevailing method for describing such tracts. Whenever coordinates of the Kansas *plane* coordinate system are used in such descriptions they shall be construed as

being supplementary to descriptions of such subdivisions, lines or corners contained in official plats and field notes of record; and, in the event of any conflict, the descriptions by reference to the subdivisions, lines or corners of the United States public land surveys, or other original pertinent surveys shall prevail over the description by coordinates.

Sec. 8. K.S.A. 58-20a05 is hereby amended to read as follows: 58-20a05. When any tract of land to be defined by a single description extends from one *zone* into ~~the~~ other ~~of the above coordinate~~ *adjacent* zones, the position of all points on its boundaries ~~may~~ *shall* be referred ~~to either of the two~~ *exclusively to only one of the multiple* zones, the zone ~~which~~ *that* is used ~~being specifically named~~ *shall be specified* in the description.

Sec. 9. K.S.A. 58-20a07 is hereby amended to read as follows: 58-20a07. The use of the term ~~"Kansas coordinate system of 1983 north zone" or "~~ Kansas *plane* coordinate system ~~of 1983 south zone"~~ on any map, report of survey, or other document shall be limited to coordinates based on the Kansas *plane* coordinate system ~~as defined in this act~~.

Sec. 10. K.S.A. 58-20a01, 58-20a02, 58-20a03, 58-20a04, 58-20a05, 58-20a06 and 58-20a07 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 29, 2024.

CHAPTER 13

SENATE BILL No. 481

AN ACT concerning Kansas state university; renaming Kansas state university polytechnic campus as Kansas state university Salina; amending K.S.A. 74-3209, 76-156a, 76-205, 76-213, 76-218, 76-751, 76-754, 76-756 and 76-7,126 and repealing the existing sections.

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

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

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

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

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

Sec. 2. K.S.A. 76-156a is hereby amended to read as follows: 76-156a. The Kansas university endowment association is hereby authorized to act as the investing agent for any endowment or bequest to the university of Kansas. The Kansas state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Kansas state university of agriculture and applied science or to Kansas state university ~~polytechnic campus~~ *Salina*. The Wichita state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Wichita state university. The Fort Hays state university foundation is hereby authorized to act as the investing agent for any endowment or bequest to Fort Hays state university. The Emporia state university foundation, inc., is hereby authorized to act as the investing agent for any endowment or bequest to Emporia state university. The Pittsburg state university foundation, inc., is hereby authorized to act as the investing agent for any endowment or bequest to Pittsburg state university.

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

Sec. 3. K.S.A. 76-205 is hereby amended to read as follows: 76-205. (a) *The Kansas state university polytechnic campus, previously known as* the Kansas college of technology ~~hereby is merged with and made a part of~~ *prior to the merger with* the Kansas state university of agriculture and applied science, ~~and the institutional infrastructure of the college hereby is designated as the Kansas state university polytechnic campus~~ *is hereby renamed Kansas state university Salina*. ~~All properties, moneys, appropriations, rights and authorities vested in the Kansas college of technology prior to the effective date of this act hereby are vested in Kansas state university of agriculture and applied science. Whenever the Kansas technical institute, or the Kansas college of technology, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas state university of agriculture and applied science~~ *Whenever Kansas state university polytechnic campus, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to Kansas state university Salina.*

(b) *Commencing in fiscal year 2025, Kansas state university Salina shall be considered a separate line item and state general fund account in the budget documents and bills concerning Kansas state university.* ~~The merger effected by this act shall not affect any contract, agreement or assurance in effect on the effective date of this act. All lawful debts of the Kansas college of technology shall be assumed and paid by the Kansas state university of agriculture and applied science.~~

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

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

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

~~(e) Commencing with the 1992 fiscal year, for the purpose of preparation of the governor's budget report and related legislative measure or measures for submission to the legislature, the Kansas state university polytechnic campus shall be considered a separate state agency and shall be titled for such purpose as the "Kansas State University Polytechnic Campus." The budget estimates and requests of such college shall be presented as a state agency separate from Kansas state university, and such separation shall be maintained in the budget documents and reports prepared by the director of the budget and the governor, or either of them, including all related legislative reports and measures submitted to the legislature.~~

Sec. 4. K.S.A. 76-213 is hereby amended to read as follows: 76-213. (a) The state board of regents has and may exercise the following powers and authority:

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

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

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

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

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

~~technology, sales service technology, industrial writing technology, communications technology, chemical control technology, quality control technology and such additional programs of technical education which may be specified from time to time by the board of regents~~ *are not limited to, programs that advance the aerospace, technology and advanced manufacturing industries of the state*.

Sec. 5. K.S.A. 76-218 is hereby amended to read as follows: 76-218. Within the limits of appropriations therefor, Kansas state university of agriculture and applied science may purchase insurance for operation and testing of completed project aircraft ~~and for operation of aircraft used in professional pilot training~~ *used in education, training and research*. The insurance may include public liability, physical damage, medical payments and voluntary settlement coverages.

Sec. 6. K.S.A. 76-751 is hereby amended to read as follows: 76-751. As used in this act, "state educational institution" means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university, and Kansas state university ~~polytechnic campus~~ *Salina*.

Sec. 7. K.S.A. 76-754 is hereby amended to read as follows: 76-754. As used in this act, "state educational institution" means Fort Hays state university, Kansas state university of agriculture and applied science, Kansas state university veterinary medical center, Emporia state university, Pittsburg state university, university of Kansas, university of Kansas medical center, Wichita state university, and Kansas state university ~~polytechnic campus~~ *Salina*.

Sec. 8. K.S.A. 76-756 is hereby amended to read as follows: 76-756. As used in this act:

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

(b) "Endowment association" means:

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

(2) for the Kansas state university of agriculture and applied science, the Kansas state university veterinary medical center, and the Kansas state university ~~polytechnic campus~~ *Salina*, the Kansas state university foundation;

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

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

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

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

Sec. 9. K.S.A. 76-7,126 is hereby amended to read as follows: 76-7,126. As used in this act, unless the context expressly provides otherwise:

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

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

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

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

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

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

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

(g) "Construction project services" means the process of planning, acquiring, building, equipping, altering, repairing, improving, or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

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

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

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

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

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

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

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

(o) "Parking lot" means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act.

A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

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

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

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

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

(s) "State board" means the state board of regents.

Sec. 10. K.S.A. 74-3209, 76-156a, 76-205, 76-213, 76-218, 76-751, 76-754, 76-756 and 76-7,126 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved March 29, 2024.

CHAPTER 14

HOUSE BILL No. 2557

AN ACT concerning the rules of evidence; relating to peer support counseling session communication privilege; expanding the definition of peer support counseling session; amending K.S.A. 2023 Supp. 60-473 and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 60-473 is hereby amended to read as follows: 60-473. (a) For the purposes of this section:

(1) "Emergency services personnel" means any employee or volunteer of an emergency services provider who is engaged in providing or supporting firefighting, dispatching services and emergency medical services.

(2) "Emergency services provider" means any public employer that employs persons to provide firefighting, dispatching services and emergency medical services.

(3) "Employee assistance program" means a program established by a law enforcement agency, emergency services provider or the Kansas national guard to provide professional counseling or support services to employees of a law enforcement agency, emergency services provider, national guard member or a professional mental health provider associated with a peer support team.

(4) "Law enforcement agency" means any public agency that employs law enforcement officers.

(5) "Law enforcement personnel" means a law enforcement officer, as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto, an employee or volunteer of a law enforcement agency.

(6) "National guard member" means a regularly enlisted, officer or civilian member of the Kansas national guard.

(7) "Peer support counseling session" means any session conducted by a peer support specialist ~~that~~ *who* is ~~called or requested in response to~~ *contacted regarding* a critical incident ~~or~~, traumatic event ~~involving the personnel~~, *professional, personal or social problem or difficult life event where peer counseling assistance and guidance would benefit members* of the law enforcement agency, emergency services provider or the Kansas national guard, *regardless of how the specialist is contacted, whether the session is conducted in a group or private setting, where the session is requested or conducted or whether the session was conducted using electronic communications*.

(8) "Peer support specialist" is a person:

(A) Designated by a law enforcement agency, emergency services provider, the Kansas national guard, employee assistance program or peer

support team leader to lead, moderate or assist in a peer support counseling session;

(B) who is a member of a peer support team; and

(C) has received training in counseling and providing emotional and moral support to law enforcement officers, emergency services personnel or national guard members who have been involved in emotionally traumatic incidents by reason of their employment.

(9) "Peer support team" means a group of peer support specialists serving one or more law enforcement providers or emergency services providers.

(b) Any communication made by a participant or peer support specialist in a peer support counseling session pursuant to this section, and any oral or written information conveyed in or as the result of the peer support counseling session, are confidential and may not be disclosed by any person participating in the peer support counseling session.

(c) Any communication relating to a peer support counseling session made confidential under subsection (b) that is made between peer support specialists, between peer support specialists and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.

(d) The provisions of this section apply only to peer support counseling sessions conducted by a peer support specialist.

(e) (1) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session.

(2) Any notes, records or reports arising out of a peer support counseling session shall not be public records and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this paragraph shall not be required to be reviewed by the legislature and shall not expire in accordance with K.S.A. 45-229, and amendments thereto.

(f) Any communication made by a participant or peer support specialist in a peer support counseling session subject to this section, and any oral or written information conveyed in a peer support counseling session subject to this section, are not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. Communications and information made confidential under this section shall not be disclosed by the participants in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. The limitations on disclosure imposed by this subsection include disclosure during any discovery conducted as part of an adjudicatory proceeding.

(g) Nothing in this section limits the discovery or introduction into evidence of knowledge acquired by any law enforcement personnel or emergency services personnel from observation made during the course of employment, or material or information acquired during the course of employment, that is otherwise subject to discovery or introduction into evidence.

(h) This section does not apply to any:

(1) Threat of suicide or criminal act made by a participant in a peer support counseling session, or any information conveyed in a peer support counseling session relating to a threat of suicide or criminal act;

(2) information relating to abuse of spouses, children or the elderly, or other information that is required to be reported by law;

(3) admission of criminal conduct;

(4) disclosure of testimony by a participant who received peer support counseling services and expressly consented to such disclosure; or

(5) disclosure of testimony by the surviving spouse or executor or administrator of the estate of a deceased participant who received peer support counseling services and such surviving spouse or executor or administrator expressly consented to such disclosure.

(i) This section does not prohibit any communications between peer support specialists who conduct peer support counseling sessions, or any communications between peer support specialists and the supervisors or staff of an employee assistance program.

(j) This section does not prohibit communications regarding fitness of an employee for duty between an employee assistance program and an employer.

(k) This section shall be a part of and supplemental to article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2023 Supp. 60-473 is hereby repealed.

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

Approved March 29, 2024.

CHAPTER 15

SENATE BILL No. 491
(Amended by Chapter 100)

AN ACT concerning criminal history and record checks; relating to the Kansas bureau of investigation; standardizing fingerprinting requirements and making conforming amendments across statutes that authorize fingerprinting; defining people to be fingerprinted; amending K.S.A. 2-3901, 2-3902, 2-3906, 2-3907, 2-3911, 7-127, 8-2,142, 9-508, 9-509, 9-513e, 9-1719, 9-1722, 9-2201, 9-2209, 9-2301, 9-2302, 12-1,120, 12-1679, 16a-6-104, 17-2234, 19-826, 39-969, 39-970, 39-2009, 40-5502, 40-5504, 41-311b, 46-1103, 46-3301, 65-503, 65-1501a, 65-1505, 65-1696, 65-2401, 65-2402, 65-2802, 65-2839a, 65-28,129, 65-2901, 65-3503, 65-4209, 65-5117, 73-1210a, 74-1112, 74-2113, 74-4905, 74-50,182, 74-50,184, 74-5605, 74-5607, 74-7511, 74-8704, 74-8705, 74-8763, 74-8769, 74-8803, 74-8805, 74-8806, 74-9802, 74-9804, 74-9805, 75-712, 75-7b01, 75-7b04, 75-7b21, 75-7e01, 75-7e03, 75-3707e, 75-4315d, 75-5133c, 75-5156, 75-53,105, 75-5609a and 75-7241 and K.S.A. 2023 Supp. 40-4905, 40-5505, 41-102, 50-6,126, 50-1128, 58-3035, 58-3039, 58-4102, 58-4127, 58-4703, 58-4709, 65-516, 65-1120, 65-1626, 65-2924, 65-3407, 65-6129, 74-5602, 74-8702, 74-8802, 74-8804, 75-7c02, 75-7c05, 75-5393a, 75-5393c and 75-5397f and repealing the existing sections.

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

New Section 1. (a) A criminal justice agency as defined in K.S.A. 22-4701, and amendments thereto, shall require an applicant for criminal justice employment to be fingerprinted and shall submit such fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a search of the state and federal database. Fingerprints provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or in another jurisdiction. An agency identified in subsection (b) may use the information obtained from the criminal history record check for the purposes of verifying the identification of a person and in the official determination of the qualifications and fitness of such person to be employed or to maintain employment.

(b) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions to:

(1) A city clerk for the position of chief of police as described in K.S.A. 12-1,120, and amendments thereto;

(2) a county election officer for a candidate for sheriff as described in K.S.A. 19-826, and amendments thereto;

(3) the governor for an appointment to the position of Kansas highway patrol superintendent as described in K.S.A. 74-2113, and amendments thereto; and

(4) a state, county, city, university, railroad, tribal, horsethief reservoir benefit district or school law enforcement agency for the purpose of ad-

mitting applicants as defined in K.S.A. 74-5602, and amendments thereto, in connection with such application as described in K.S.A. 74-5605, and amendments thereto.

(c) In addition to the disclosure in subsection (b), the Kansas bureau of investigation shall certify any adult conviction record, if such record is found, of a chief of police or candidate for sheriff to the Kansas attorney general.

(d) (1) Fingerprints and criminal history record information received pursuant to this section 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 paragraph shall expire on July 1, 2029, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(2) Disclosure or use of any information received pursuant to this section for any purpose other than the purpose described in this section shall be a class A nonperson misdemeanor and shall constitute grounds for removal from office.

New Sec. 2. (a) A governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701, and amendments thereto, identified in subsection (b) may require a person to be fingerprinted and shall submit such fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a search of the state and federal database. Fingerprints provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or in another jurisdiction. An agency identified in subsection (b) may use the information obtained from the criminal history record check for the purposes of verifying the identification of a person and in the official determination of the qualifications and fitness of such person to be issued or maintain employment, licensure, registration, certification or a permit, act as an agent of a licensee, hold ownership of a licensee or serve as a director or officer of a licensee.

(b) (1) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications, juvenile diversions and juvenile expunged records to the Kansas department for children and families or the Kansas department for aging and disability services for initial or continuing employment or participation in any program administered for the placement, safety, protection or treatment of vulnerable children or adults as described in K.S.A. 75-53,105, and amendments thereto.

(2) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records and juvenile expunged records to:

(A) The state lottery for candidates for employees as defined in K.S.A.

74-8702, and amendments thereto, in connection with such employment as described in K.S.A. 74-8704, and amendments thereto; and

(B) the Kansas racing and gaming commission for candidates for employees or licensees as defined in K.S.A. 74-8802, and amendments thereto, in connection with such employment or license as described in K.S.A. 74-8804, and amendments thereto, including an applicant for a simulcasting license.

(3) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions, adult expunged records, juvenile adjudications, juvenile non-adjudications and juvenile diversions to:

(A) The emergency medical services board for applicants as defined in K.S.A. 65-6129, and amendments thereto, in connection with such application as described in K.S.A. 65-6129, and amendments thereto;

(B) the attorney general for applicants as defined in K.S.A 75-7c01, and amendments thereto, in connection with such application as described in K.S.A. 75-7c05, and amendments thereto; and

(C) the department of administration for candidates for sensitive employees as defined in K.S.A. 75-3707e, and amendments thereto, in connection with such employment as described in K.S.A. 75-3707e, and amendments thereto.

(4) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions and adult expunged records to:

(A) The supreme court and state board of law examiners for applicants as defined in K.S.A. 7-127, and amendments thereto, in connection with such application as described in K.S.A. 7-127, and amendments thereto;

(B) the state gaming agency for candidates for employees and licensees as defined in K.S.A. 74-9802, and amendments thereto, in connection with such employment or license as described in K.S.A. 74-9805, and amendments thereto;

(C) the attorney general for applicants as defined in K.S.A. 75-7b01, and amendments thereto, in connection with such application as described in K.S.A. 75-7b04, and amendments thereto;

(D) the attorney general for applicants as defined in K.S.A. 75-7b01, and amendments thereto, in connection with such application for certification as described in K.S.A. 75-7b21, and amendments thereto; and

(E) the commission on peace officers' standards and training for applicants for certification under the Kansas law enforcement training act as described in K.S.A. 74-5607, and amendments thereto.

(5) The Kansas bureau of investigation shall release criminal history record information related to adult convictions, adult non-convictions, adult diversions and juvenile adjudications to:

(A) The athletic commission within the Kansas department of commerce for a candidate for boxing commission as defined in K.S.A. 74-50,182, and amendments thereto, in connection with such appointment as described in K.S.A. 74-50,184, and amendments thereto; and

(B) the secretary of health and environment for employees at a child care facility as defined in K.S.A. 65-503, and amendments thereto, in connection with such employment as described in K.S.A. 65-516, and amendments thereto.

(6) The Kansas bureau of investigation shall release criminal history record information related to adult convictions and juvenile adjudications to:

(A) The secretary for aging and disability services for applicants as defined in K.S.A. 39-970, and amendments thereto, in connection with such application as described in K.S.A. 39-970, and amendments thereto;

(B) the Kansas department for aging and disability services for applicants as defined in K.S.A. 39-2009, and amendments thereto, in connection with such application as described in K.S.A. 39-2009, and amendments thereto; and

(C) the secretary for aging and disability services for applicants as defined in K.S.A. 65-5117, and amendments thereto, in connection with such application as described in K.S.A. 65-5117, and amendments thereto.

(7) The Kansas bureau of investigation shall release criminal history record information related to adult convictions and adult nonconvictions to:

(A) The division of motor vehicles within the department of revenue for applicants for reinstatement of a license to drive a commercial motor vehicle as described in K.S.A. 8-2,142, and amendments thereto;

(B) the board of examiners in optometry for applicants or licensees as defined in K.S.A. 65-1501, and amendments thereto, in connection with such application or an investigation as described in K.S.A. 65-1505, and amendments thereto;

(C) the board of pharmacy for fingerprint candidates as defined in K.S.A. 65-1626, and amendments thereto, in connection with such application or license as described in K.S.A. 65-1696, and amendments thereto;

(D) the state board of healing arts for applicants or licensees as defined in K.S.A. 65-2802, and amendments thereto, in connection with such application or an investigation as described in K.S.A. 65-28,129, and amendments thereto;

(E) the state board of healing arts for applicants or licensees as defined in K.S.A. 65-2901, and amendments thereto, in connection with such application or an investigation as described in K.S.A. 65-2924, and amendments thereto;

(F) the board of nursing for applicants as defined in K.S.A. 74-1112, and amendments thereto, in connection with such application as described in K.S.A. 74-1112, and amendments thereto;

(G) the behavioral sciences regulatory board for licensees as defined in K.S.A. 74-7511, and amendments thereto, in connection with such application or license as described in K.S.A. 74-7511, and amendments thereto;

(H) the state lottery for a vendor to whom a major procurement contract is to be awarded in connection with an investigation as described in K.S.A. 74-8705, and amendments thereto;

(I) the attorney general for appointees of the governor to positions subject to confirmation by the senate and judicial appointees as described in K.S.A. 75-712, and amendments thereto;

(J) appointing authorities as defined in K.S.A. 75-4315d, and amendments thereto, for nongubernatorial appointees as described in K.S.A. 75-4315d, and amendments thereto;

(K) the Kansas real estate commission for applicants as defined in K.S.A. 58-3035, and amendments thereto, or for licensees as defined in K.S.A. 58-3035, and amendments thereto, in connection with an investigation as described in K.S.A. 58-3039, and amendments thereto;

(L) the insurance commissioner for applicants for licensure as an insurance agent as defined in K.S.A. 40-4902, and amendments thereto, in connection with such application as described in K.S.A. 40-4905, and amendments thereto; and

(M) the insurance commissioner for applicants as defined in K.S.A. 40-5501, and amendments thereto, in connection with such application as described in K.S.A. 40-5505, and amendments thereto.

(8) The Kansas bureau of investigation shall release criminal history record information related to adult convictions to:

(A) The department of agriculture for hemp employees as defined in K.S.A. 2-3901, and amendments thereto, in connection with such employment as described in K.S.A. 2-3902, and amendments thereto;

(B) the department of agriculture for applicants for licensure as a hemp producer as defined in K.S.A. 2-3901, and amendments thereto, in connection with such application as described in K.S.A. 2-3906, and amendments thereto;

(C) the office of state fire marshal for applicants for registration as a hemp processor as defined in K.S.A. 2-3901, and amendments thereto, in connection with such application as described in K.S.A. 2-3907, and amendments thereto;

(D) the department of agriculture for hemp destruction employees as defined in K.S.A. 2-3901, and amendments thereto, in connection with such employment as described in K.S.A. 2-3911, and amendments thereto;

(E) the bank commissioner for any applicant as defined in K.S.A. 9-508, and amendments thereto, in connection with such application as described in K.S.A. 9-509, and amendments thereto;

(F) the bank commissioner for an applicant for employment as a new executive officer or director with a money transmitter company as described in K.S.A. 9-513e, and amendments thereto;

(G) the bank commissioner for any applicant as defined in K.S.A. 9-1719, and amendments thereto, in connection with such application as described in K.S.A. 9-1722, and amendments thereto;

(H) the bank commissioner for an applicant, registrant or licensee as defined in K.S.A. 9-2201, and amendments thereto, in connection with such application, registration or license as described in K.S.A. 9-2209, and amendments thereto;

(I) the state banking board for any officer, director or organizer of a proposed fiduciary financial institution as defined in K.S.A. 9-2301, and amendments thereto, in connection with such role as described in K.S.A. 9-2302, and amendments thereto;

(J) municipalities for applicants for merchant or security police as described in K.S.A. 12-1679, and amendments thereto;

(K) the bank commissioner for applicants as defined in K.S.A. 16a-6-104, and amendments thereto, in connection with such application as described in K.S.A. 16a-6-104, and amendments thereto;

(L) the state department of credit unions for every candidate as defined in K.S.A. 17-2234, and amendments thereto, in connection with such employment as described in K.S.A. 17-2234, and amendments thereto;

(M) the division of alcoholic beverage control within the department of revenue for applicants as defined in K.S.A. 41-102, and amendments thereto, in connection with such application as described in K.S.A. 41-311b, and amendments thereto;

(N) the division of post audit for employees as defined in K.S.A. 46-1103, and amendments thereto, in connection with such employment as described in K.S.A. 46-1103, and amendments thereto;

(O) the bank commissioner for licensees as defined in K.S.A. 50-1126, and amendments thereto, in connection with such license as described in K.S.A. 50-1128, and amendments thereto;

(P) the real estate appraisal board for licensees as defined in K.S.A. 58-4102, and amendments thereto, in connection with an application or investigation as described in K.S.A. 58-4127, and amendments thereto;

(Q) the real estate appraisal board for applicants as defined in K.S.A. 58-4703, and amendments thereto, in connection with such application as described in K.S.A. 58-4709, and amendments thereto;

(R) the department of health and environment for an employee as defined in K.S.A. 65-2401, and amendments thereto, in connection with

such employment as described in K.S.A. 65-2402, and amendments thereto;

(S) the Kansas commission on veterans affairs office for candidates as defined in K.S.A. 73-1210a, and amendments thereto, in connection with an application as described in K.S.A. 73-1210a, and amendments thereto;

(T) a senate standing committee for a member named, appointed or elected to the public employee retirement systems board of trustee membership as described in K.S.A. 74-4905, and amendments thereto;

(U) the attorney general for applicants as defined in K.S.A. 75-7e01, and amendments thereto, in connection with such application as described in K.S.A. 75-7e03, and amendments thereto;

(V) the department of revenue for employees as defined in K.S.A. 75-5133c, and amendments thereto, in connection with such employment as described in K.S.A. 75-5133c, and amendments thereto;

(W) the divison of motor vehicles within the department of revenue for employees as defined in K.S.A. 75-5156, and amendments thereto, in connection with such employment as described in K.S.A. 75-5156, and amendments thereto;

(X) the Kansas commission for the deaf and hard of hearing for applicants as defined in K.S.A. 75-5397f, and amendments thereto, in connection with such application as described in K.S.A. 75-5393a, and amendments thereto;

(Y) the Kansas commission for the deaf and hard of hearing for employees as defined in K.S.A. 75-5397f, and amendments thereto, in connection with such employment as described in K.S.A. 75-5393c, and amendments thereto;

(Z) the department of health and environment for employees as defined in K.S.A. 75-5609a, and amendments thereto, in connection with such employment as described in K.S.A. 75-5609a, and amendments thereto; and

(AA) an executive branch agency head for employees as defined in K.S.A. 75-7241, and amendments thereto, in connection with such employment as described in K.S.A. 75-7241, and amendments thereto.

(c) State and local law enforcement agencies shall assist with taking fingerprints of individuals as authorized by this section.

(d) Any board, commission, committee or other public body shall recess into a closed executive session pursuant to K.S.A. 75-4319, and amendments thereto, to receive and discuss criminal history record information obtained pursuant to this section.

(e) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.

(f) (1) Fingerprints and criminal history record information received pursuant to this section 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 paragraph shall expire on July 1, 2029, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(2) Disclosure or use of any information received pursuant to this section for any purpose other than the purpose described in this section shall be a class A nonperson misdemeanor and shall constitute grounds for removal from office.

New Sec. 3. (a) A governmental agency other than a criminal justice agency as defined in K.S.A. 22-4701, and amendments thereto, identified in subsection (b) may require a name-based criminal history record check of a person from the Kansas bureau of investigation from the state database. An agency identified in subsection (b) may use the information obtained from the criminal history record check for the purposes of determining whether the person has a record of criminal history in this state that would prohibit such person from employment, licensure, registration or obtaining a permit.

(b) (1) The Kansas bureau of investigation shall release criminal history record information related to adult convictions and adult nonconvictions to:

(A) The state board of healing arts for determining qualifications for an original application or reinstatement of a license, permit registration or certification as described in K.S.A. 65-2839a, and amendments thereto; and

(B) the state lottery for the purpose of awarding major contracts as described in K.S.A. 74-8705, and amendments thereto.

(2) The Kansas bureau of investigation shall release criminal history record information related to adult convictions to:

(A) The department for aging and disability services for applicants for an adult care home operator license as described in K.S.A. 39-969, and amendments thereto;

(B) the joint committee on Kansas security for committee staff members of the office of revisor of statutes and the legislative research department as described in K.S.A. 46-3301, and amendments thereto;

(C) the attorney general for applicants for roofing contractors registration as described in K.S.A. 50-6,126, and amendments thereto;

(D) the department of health and environment for applicants for a permit to construct, alter or operate a solid waste processing facility as described in K.S.A. 65-3407, and amendments thereto;

(E) the Kansas department for aging and disability services for applicants for licensure as an adult care home administrator as described in K.S.A. 65-3503, and amendments thereto;

(F) the board of nursing for applicants for a mental health technician license as described in K.S.A. 65-4209, and amendments thereto;

(G) the board of nursing for applicants for nurse licensure as described in K.S.A. 65-1120, and amendments thereto;

(H) the state lottery for applicants for employment at the lottery as described in K.S.A. 74-8763, and amendments thereto;

(I) the state lottery for applicants for employment at the lottery as described in K.S.A. 74-8769, and amendments thereto;

(J) the governor and the senate for appointees to the Kansas racing and gaming commission as described in K.S.A. 74-8803, and amendments thereto;

(K) the governor and the senate for an appointee as executive director of the Kansas racing and gaming commission as described in K.S.A. 74-8805, and amendments thereto;

(L) the Kansas racing and gaming commission for employees who are animal health officers as described in K.S.A. 74-8806, and amendments thereto; and

(M) the governor and the senate for an appointee as executive director of the state gaming agency as described in K.S.A. 74-9804, and amendments thereto.

(c) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.

(d) Criminal history record information received pursuant to this section 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 paragraph shall expire on July 1, 2029, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

Sec. 4. K.S.A. 2-3901 is hereby amended to read as follows: 2-3901. (a) K.S.A. 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 any purpose authorized under K.S.A 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 pro-

visions 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 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. 2-3906, and amendments thereto.

(6) "Hemp processor" means a person registered under K.S.A. 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) "State educational institution" means the university of Kansas, Kansas state university, Wichita state university, Emporia state university, Pittsburg state university, Fort Hays state university, or any other accredited college, university, technical college or community college within Kansas.

(10) "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.

(11) "Hemp employee" means a person who has applied for employment or is currently employed with the Kansas department of agriculture who oversees or regulates industrial hemp.

(12) "Applicant" means a person who has submitted an application for licensure as a hemp producer or registration as a hemp processor.

(13) "Hemp destruction employee" means an employee or agent of the Kansas department of agriculture who participates in the effective disposal of industrial hemp.

Sec. 5. K.S.A. 2-3902 is hereby amended to read as follows: 2-3902. (a) The Kansas department of agriculture shall, by the adoption of rules and regulations, establish an advisory board within the department to provide input and information regarding the regulation and development of industrial hemp in the state of Kansas and any programs proposed or operated by the department. Such board shall include a minimum of six members, including members that represent the following:

(1) The Kansas legislature;
(2) crop research;
(3) industrial hemp production or processing;
(4) law enforcement;
(5) seed certification; and
(6) the state entity designated to regulate hemp processors.

(b) The state advisory board shall meet at least annually. Members shall receive no compensation but shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(c) The secretary of agriculture may require~~, as a qualification for initial or continuing employment with the Kansas department of agriculture, all individuals overseeing or regulating industrial hemp~~ *a hemp employee* to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. 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. The department 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 qualifications for initial or continuing employment pursuant to this section and rules and regulations promulgated hereunder. Disclosure or use of any information received by the department for any purpose other than the purposes provided for in this section shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.~~

(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 initial or continuing employment under this section.

(3) ~~The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.~~

~~(4)~~ The individual seeking initial or continuing employment under this section shall pay the costs of fingerprinting and the state and national criminal history record checks.

Sec. 6. K.S.A. 2-3906 is hereby amended to read as follows: 2-3906. (a) The Kansas department of agriculture, in consultation with the governor and attorney general, shall submit a plan to the United States department of agriculture under which the Kansas department of agriculture will monitor and regulate the commercial production of industrial hemp within the state in accordance with 7 U.S.C. § 1621 et seq. and any rules and regulations adopted thereunder.

(b) Such plan shall include the following:

(1) A procedure to maintain relevant information regarding land on which industrial hemp is produced, including a legal description of the land, for a period of not less than three calendar years;

(2) a procedure for testing, using post-decarboxylation or other similarly reliable methods, the delta-9 tetrahydrocannabinol concentration levels of industrial hemp produced;

(3) a procedure for the effective disposal of industrial hemp and hemp products that are found to be in violation of this act;

(4) any licensing requirements or other rules and regulations deemed necessary by the Kansas department of agriculture for the proper monitoring and regulation of industrial hemp cultivation and production for commercial purposes, including, but not limited to:

(A) Fees for licenses, license renewals and other necessary expenses to defray the cost of implementing and operating the plan on an ongoing basis; and

(B) standards for authorized seed or clone plants;

(5) a procedure for the creation of documentation that any person in possession of unprocessed industrial hemp may use to prove to any law enforcement officer that such industrial hemp was lawfully grown under this section;

(6) a procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that industrial hemp is not produced in violation of this act; and

(7) any other procedures necessary to meet the requirements set forth in 7 U.S.C. § 1621 et seq. and any rules and regulations adopted thereunder.

(c) (1) A hemp producer who negligently violates this section or any rules and regulations adopted hereunder shall not be subject to any state or local criminal enforcement action, but shall comply with the following corrective actions as applicable:

(A) A reasonable date by which the hemp producer shall correct the negligent violation; and

(B) a requirement that the hemp producer shall periodically report to the Kansas department of agriculture on the hemp producer's compliance with this section and rules and regulations adopted hereunder, for a period of not less than the next two calendar years.

(2) A hemp producer who negligently violates this section or any rules and regulations adopted hereunder three times in a five-year period shall be ineligible to produce industrial hemp for a period of five years beginning on the date of the third violation.

(3) The Kansas department of agriculture shall immediately report any violation by a hemp producer with a greater culpable mental state than negligence to the attorney general and such hemp producer shall not be subject to the exemption in subsection (c)(1).

(d) Any individual otherwise eligible to become a licensed hemp producer shall not be eligible to produce industrial hemp if such individual has submitted any materially false information in any application to become a licensed hemp producer.

(e) (1) The department shall require, as a qualification for initial or continuing licensure, all individuals seeking a license or license renewal as a hemp producer under this section to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. 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. The department 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 qualifications for initial or continuing licensure as a hemp producer pursuant to this section and rules and regulations promulgated hereunder. Disclosure or use of any information received by the department for any purpose other than the purposes provided for in the commercial industrial hemp act shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.~~

(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 initial or continuing licensure as a hemp producer under this section.

(3) ~~The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.~~

~~(4)~~ The individual seeking a license or license renewal as a hemp producer under this section shall pay the costs of fingerprinting and the state and national criminal history record checks.

(f) The secretary of agriculture shall promulgate rules and regulations to implement the plan submitted to the United States department of agriculture and to otherwise effectuate the provisions of this section.

(g) Upon the repeal of 7 U.S.C. § 5940 or either the adoption of a federal plan by the United States department of agriculture that allows for the cultivation and production of industrial hemp for commercial purposes within the state or upon the adoption of rules and regulations by the Kansas secretary of agriculture that establish the cultivation and production of industrial hemp for commercial purposes within the state, the Kansas department of agriculture may discontinue the industrial hemp research program established pursuant to K.S.A. 2-3902, and amendments thereto.

(h) Any modification fee established by the department for any requested change to a license that was previously issued by the department under this section shall not exceed $50.

(i) Any licensing or other fees collected pursuant to this section and any rules and regulations adopted hereunder shall be deposited in the commercial industrial hemp act licensing fee fund established by K.S.A. 2-3903, and amendments thereto, for all costs of the administration of the commercial production of industrial hemp.

(j) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

Sec. 7. K.S.A. 2-3907 is hereby amended to read as follows: 2-3907. (a) The 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 state fire marshal prior to processing industrial hemp.

(c) Registration shall expire annually on June 30. Registration fees, not to exceed $1,000, shall be established pursuant to rules and regulations adopted by the 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 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 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) 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 fire marshal fee fund.

(g) It shall be unlawful for any person to operate as a hemp processor without valid registration. Upon a first conviction for a violation of this subsection, a person shall be guilty of a class A nonperson misdemeanor. On a second or subsequent conviction for a violation of this subsection, a person shall be guilty of a severity level 9, nonperson felony.

(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 *in accordance with section 2, and amendments thereto*. ~~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 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.~~

(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.

(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.

(k) This section shall be a part of and supplemental to the commercial industrial hemp act, K.S.A. 2-3901 et seq., and amendments thereto.

Sec. 8. K.S.A. 2-3911 is hereby amended to read as follows: 2-3911. (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~~ *a* hemp *destruction employee* to be fingerprinted and to submit to a state and national criminal history record check annually *in accordance with section 2, and amendments thereto*. 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. 2-3901 et seq., and amendments thereto.

Sec. 9. K.S.A. 7-127 is hereby amended to read as follows: 7-127. (a) *(1)* Each applicant~~ for admission to practice law in this state~~, in submitting the application, shall provide to~~ the clerk of~~ the supreme court the information enumerated in K.S.A. 25-2309(b)(1) through (5), and amendments thereto. Whenever any person whose application for admission to practice law in this state is pending shall move from the residential address listed on such person's application, or when the name of any such person is changed by marriage or otherwise, such person, within 10 days thereafter, shall notify ~~the clerk of~~ the supreme court in writing of such person's old and new residential addresses or of such person's former and new names.

(2) As used in this subsection, "applicant" means a person who has submitted an application for admission to practice law in this state.

(b) Any person whose application to practice law in Kansas is pending as of ~~the effective date of this act~~ *July 1, 2016*, and for whom the information enumerated in K.S.A. 25-2309(b)(1) through (5), and amendments thereto, is not correct on such application as of the effective date of this act, shall provide the information enumerated in K.S.A. 25-2309(b)(1) through (5), and amendments thereto, in writing to~~ the clerk of~~ the supreme court within 60 days after the effective date of this act. The~~ clerk of the~~ supreme court, within 30 days after the effective date of this act, shall send notice to all persons whose applications to practice law in Kansas are pending as of the effective date of this act, that such persons are required by law to provide the information enumerated in K.S.A. 25-2309(b)(1) through (5), and amendments thereto, in writing to~~ the clerk of~~ the supreme court within 60 days after the effective date of this act.

(c) The supreme court may require an applicant for admission to practice law in this state to be fingerprinted and submit to a national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal arrests and convictions in this state or other jurisdictions. The supreme court and the state board of law examiners are authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The state board of law examiners and the supreme court may use the information obtained from fingerprinting and the applicant's criminal history only for purposes of verifying the identification of any applicant and in the official determination of character and fitness of the applicant for admission to practice law in this state.~~

~~(d) Local and state law enforcement officers and agencies shall assist the supreme court in taking and processing of fingerprints of applicants seeking admission to practice law in this state and shall release all records of an applicant's arrests and convictions to the supreme court and the state board of law examiners.~~

Sec. 10. K.S.A. 8-2,142 is hereby amended to read as follows: 8-2,142. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year upon a first occurrence of any one of the following:

(1) While operating a commercial motor vehicle:

(A) The person is convicted of violating K.S.A. 8-2,144, and amendments thereto;

(B) the person is convicted of violating K.S.A. 8-2,132(b), and amendments thereto;

(C) the person is convicted of causing a fatality through the negligent operation of a commercial motor vehicle;

(D) the person's test refusal or test failure, as defined in subsection (m); or

(E) the person is convicted of a violation identified in subsection (a)(2)(A); or

(2) while operating a noncommercial motor vehicle:

(A) The person is convicted of a violation of K.S.A. 8-1567, and amendments thereto, or of a violation of an ordinance of any city in this state, a resolution of any county in this state or any law of another state, which ordinance or law declares to be unlawful the acts prohibited by that statute; or

(B) the person's test refusal or test failure, as defined in K.S.A. 8-1013, and amendments thereto; or

(3) while operating any motor vehicle:

(A) The person is convicted of leaving the scene of an accident; or

(B) the person is convicted of a felony, other than a felony described in subsection (e), while using a motor vehicle to commit such felony.

(b) If any offenses, test refusal or test failure specified in subsection (a) occurred in a commercial motor vehicle while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(c) A person shall be disqualified for life upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination thereof, arising from two or more separate incidents occurring on or after July 1, 2003.

(d) (1) Any person disqualified for life under subsection (c) who seeks to have commercial driving privileges restored after such person has been disqualified for at least 10 years shall apply in writing to the division.

(2) The division shall restore a person's commercial driving privileges if the division determines:

(A) None of the occurrences that led to the person's lifetime disqualification under subsection (c) included violations described in subsection (a)(1)(A) or (a)(1)(E);

(B) the person has had no occurrence of any offense, test refusal or test failure specified in subsection (a) during the 10-year period preceding the application;

(C) the person has had no alcohol or drug related convictions as defined in K.S.A. 8-2,128, and amendments thereto, in Kansas or any other jurisdiction during the 10-year period preceding the application;

(D) the person has no pending alcohol or drug related criminal charges in Kansas or any other jurisdiction;

(E) the person has had no convictions for violations that occurred while operating a commercial motor vehicle in Kansas or any other jurisdiction during the 10-year period preceding the application;

(F) the person has successfully completed an alcohol or drug treatment program, or a comparable program, that meets or exceeds the minimum standards approved by the Kansas department for aging and disability services if any of the disqualifying offenses were drug or alcohol related;

(G) the person is no longer a threat to the public safety of this state. The division may request, and the person shall provide, any additional information or documentation which the division deems necessary to determine the person's fitness for relicensure;

(H) the person is otherwise eligible for licensure; and

(I) the person has not previously been restored to commercial motor vehicle privileges following a prior 10-year-minimum disqualification.

(3) For purposes of verifying a person's prior 10-year alcohol and drug history, the person shall provide a copy of the person's closed criminal history from any jurisdiction to the division.

(4) If the division finds the person is eligible for restoration to commercial driving status, such person shall complete the written and driving skills examinations as specified in K.S.A. 8-2,133, and amendments thereto, before a commercial driver license is issued.

(5) If the person is found ineligible for restoration of commercial driving privileges, the division shall notify the person of such findings by certified mail and continue the denial of commercial driving privilege until such ineligibility has been disproven to the division's satisfaction.

(6) Any person who previously had such person's commercial motor vehicle privileges restored pursuant to this statute shall not be eligible to apply for restoration if such person receives another lifetime disqualification.

(7) Any person who is aggrieved by the decision of the division may appeal for review in accordance with the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(8) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection prior to March 1, 2023.

(e) (1) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(2) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons. The term "severe forms of trafficking in persons" means:

(A) Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

(f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period. Any disqualification period under this paragraph shall be in addition to any other previous period of disqualification. The beginning date for any three-year period within a ten-year period, required by this subsection, shall be the issuance date of the citation which resulted in a conviction.

(g) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious

traffic violations, or 120 days if convicted of three or more serious traffic violations, committed in a noncommercial motor vehicle arising from separate incidents occurring within a three-year period, if such convictions result in the revocation, cancellation or suspension of the person's driving privileges.

(h) (1) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) One hundred and eighty days nor more than one year, if the driver is convicted of a first violation of an out-of-service order;

(B) two years nor more than five years if the person has one prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation; or

(C) three years nor more than five years if the person has two or more prior convictions for violating out-of-service orders in separate incidents and such prior offenses were committed within the 10 years immediately preceding the date of the present violation.

(2) A person who is convicted of operating a commercial motor vehicle in violation of an out-of-service order while transporting a hazardous material required to be placarded under 49 U.S.C. § 5101 et seq. or while operating a motor vehicle designed to transport more than 15 passengers, including the driver, shall be disqualified from driving a commercial motor vehicle for a period of not less than:

(A) One hundred and eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service order; or

(B) three years nor more than five years if the person has a prior conviction for violating an out-of-service order in a separate incident and such prior offense was committed within the 10 years immediately preceding the date of the present violation.

(i) (1) A person who is convicted of operating a commercial motor vehicle in violation of a federal, state or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing shall be disqualified from driving a commercial motor vehicle for the period of time specified in paragraph (2) for persons:

(A) Who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(B) who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(C) who are always required to stop, failing to stop before driving onto the crossing;

(D) failing to have sufficient space to drive completely through the crossing without stopping;

(E) failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(F) failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) A driver shall be disqualified from driving a commercial motor vehicle for not less than:

(A) Sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation;

(B) one hundred and twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents; or

(C) one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

(j) *The division may require a person applying for a commercial driver's license to be fingerprinted and submit to a state and national criminal history record check in accordance with section 2, and amendments thereto.*

(k) After suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the division shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license within 10 days. The notification shall include both the disqualification and the violation that resulted in the disqualification, suspension, revocation or cancellation.

~~(k)~~*(l)* Upon receiving notification from the licensing authority of another state, that it has disqualified a commercial driver's license holder licensed by this state, or has suspended, revoked or canceled such commercial driver's license holder's commercial driver's license, the division shall record such notification and the information such notification provides on the driver's record.

~~(l)~~*(m)* Upon suspension, revocation, cancellation or disqualification of a commercial driver's license under this act, the license shall be immediately surrendered to the division if still in the licensee's possession. If otherwise eligible, and upon payment of the required fees, the licensee may be issued a noncommercial driver's license for the period of suspension, revocation, cancellation or disqualification of the commercial driver's license under the same identifier number.

~~(m)~~*(n)* As used in this section, "test refusal" means a person's refusal to submit to and complete a test requested pursuant to K.S.A. 8-2,145, and amendments thereto; "test failure" means a person's submission to and completion of a test which determines that the person's alcohol

concentration is .04 or greater, pursuant to K.S.A. 8-2,145, and amendments thereto.

~~(n)~~*(o)* If a person is disqualified for life under on subsection (c), and at least one of the disqualifying incidents occurred prior to July 1, 2003, the person may apply to the secretary of revenue for review of the incidents and modification of the disqualification. The secretary shall adopt rules and regulations establishing guidelines, including conditions, to administer this subsection prior to March 1, 2023.

Sec. 11. K.S.A. 9-508 is hereby amended to read as follows: 9-508. As used in this act:

(a) "Agent" means a person designated by a licensee to receive funds from a Kansas resident in order to forward such funds to the licensee to effectuate money transmission at one or more physical locations throughout the state or through the internet, regardless of whether such person would be exempt from the act by conducting money transmission on such person's own behalf;

(b) *"applicant" means any individual, officer, director, partner, member or shareholder related to an application for a license under this act;*

(c) "commissioner" means the state bank commissioner;

~~(c)~~*(d)* "control" means the power directly or indirectly to direct management or policies of a person engaged in money transmission or to vote 25% or more of any class of voting shares of a person engaged in money transmission;

~~(d)~~*(e)* "electronic instrument" means a card or other tangible object for the transmission or payment of money, including a prepaid access card or device which contains a microprocessor chip, magnetic stripe or other means for the storage of information, that is prefunded and for which the value is decremented upon each use, but does not include a card or other tangible object that is redeemable by the issuer in goods or services;

~~(e)~~*(f) "executive" means an executive officer or director of a licensee;*

(g) "licensee" means a person licensed under this act;

~~(f)~~*(h)* "nationwide multi-state licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors, or its successors and assigns, for the licensing and reporting of those persons engaging in the money transmission;

~~(g)~~*(i)* "monetary value" means a medium of exchange, whether or not redeemable in money;

~~(h)~~*(j)* "money transmission" means to engage in the business of the sale or issuance of payment instruments or of receiving money or monetary value for transmission to a location within or outside the United States by wire, facsimile, electronic means or any other means, except that money transmission does not include currency exchange where no transmission of money occurs;

~~(i)~~*(k)* "outstanding payment liability" means:

(1) With respect to a payment instrument, any payment instrument issued or sold by the licensee which has been sold in the United States directly by the licensee, or any payment instrument that has been sold by an agent of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee; or

(2) with respect to the transmission of money or monetary value, any money or monetary value the licensee or an agent of the licensee has received from a customer in the United States for transmission which has not yet been delivered to the recipient or otherwise paid by the licensee;

~~(j)~~*(l)* "payment instrument" means any electronic or written check, draft, money order, travelers check or other electronic or written instrument or order for the transmission or payment of money, sold or issued to one or more persons, whether or not such instrument is negotiable. The term "payment instrument" does not include any credit card voucher, any letter of credit or any instrument which is redeemable by the issuer in goods or services;

~~(k)~~*(m)* "permissible investments" means:

(1) Cash;

(2) deposits in a demand or interest bearing account with a domestic federally insured depository institution, including certificates of deposit;

(3) debt obligations of a domestic federally insured depository institution;

(4) any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates such securities;

(5) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States;

(6) obligations that a state, an agency or political subdivision of a state, the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(7) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein;

(8) receivables that are payable to a licensee, in the ordinary course of business, pursuant to contracts which are not past due and which do not exceed in the aggregate 40% of the total required permissible investments pursuant to K.S.A. 9-513b, and amendments thereto. A receivable is past due if not remitted to the licensee within 10 business days; or

(9) any other investment or security device approved by the commissioner;

~~(l)~~*(n)* "person" means any individual, partnership, association, joint-stock association, trust, corporation or any other form of business enterprise;

~~(m)~~*(o)* "resident" means any natural person or business entity located in this state;

~~(n)~~*(p)* "service provider" means any person that provides services as described in K.S.A. 9-511(a)(2)(A), and amendments thereto, that are used by an exempt entity or its agent to provide money transmission services to the exempt entity's customers. A service provider does not contract with the customers of an exempt entity on its own or on behalf of an exempt entity or the exempt entity's agent; and

~~(o)~~*(q)* "tangible net worth" means the physical worth of a licensee, calculated by taking a licensee's assets and subtracting its liabilities and its intangible assets, such as copyrights, patents, intellectual property and goodwill.

Sec. 12. K.S.A. 9-509 is hereby amended to read as follows: 9-509. (a) No person shall engage in the business of selling, issuing or delivering its payment instrument, check, draft, money order, personal money order, bill of exchange, evidence of indebtedness or other instrument for the transmission or payment of money or otherwise engage in the business of money transmission with a resident of this state, or, except as provided in K.S.A. 9-510, and amendments thereto, act as agent for another in the transmission of money as a service or for a fee or other consideration, unless such person files a complete application and obtains a license from the commissioner.

(b) Each license shall expire December 31 of each year. A license shall be renewed by filing with the commissioner a complete application and nonrefundable application fee at least 30 days prior to expiration of the license. Renewal applications received between December 1 and December 31 of each year and incomplete renewal applications as of December 1 of each year shall be assessed a late fee. Expired licenses may be reinstated through the last day of February of each year by filing a reinstatement application and paying the appropriate application and late fees.

(c) It shall be unlawful for a person, acting directly or indirectly or through concert with one or more persons, to acquire control of any person engaged in money transmission through purchase, assignment, pledge or other disposition of voting shares of such money transmitter, except with the prior approval of the commissioner. Request for approval of the proposed acquisition shall be made by filing a complete application with the commissioner at least 60 days prior to the acquisition.

(d) All applications shall be submitted in the form and manner prescribed by the commissioner. Additionally, the following shall apply to all applications:

(1) The commissioner may use a nationwide multi-state licensing system and registry for processing applications, renewals, amendments, surrenders, and any other activity the commissioner deems appropriate. The commissioner may also use a nationwide multi-state licensing system and registry for requesting and distributing any information regarding money transmitter licensing to and from any source so directed by the commissioner. The commissioner may establish relationships or contracts with the nationwide multi-state licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees, as may be reasonably necessary to participate in the nationwide multi-state licensing system and registry. The commissioner may report violations of the law, as well as enforcement actions and other relevant information to the nationwide multi-state licensing system and registry. The commissioner may require any applicant or licensee to file reports with the nationwide multi-state licensing system and registry in the form prescribed by the commissioner.

(2) An application shall be accompanied by nonrefundable fees established by the commissioner for the license. The commissioner shall determine the amount of such fees to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year. Any person using the multi-state licensing system shall pay all associated costs.

(3) (A) The commissioner may require fingerprinting of ~~any individual, officer, director, partner, member, shareholder or any other person related to the application deemed necessary by the commissioner~~ *an applicant in accordance with section 2, and amendments thereto*. If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, no fingerprint check shall be required. ~~Fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction.~~

(B) ~~The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person, or in the case of an applicant company, the persons associated with the company.~~

~~(C)~~ For purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have with the individual states, the commissioner may use a nationwide multi-state licens-

ing system and registry for requesting information from and distributing information to the department of justice or any governmental agency.

~~(D) Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.~~

(4) Each application shall include audited financial statements for each of the two fiscal years immediately preceding the date of the application and an interim financial statement, as of a date not more than 90 days prior to the date of the filing of an application. The audited and interim financial statements shall be prepared in accordance with United States generally accepted accounting principles or in any other form or manner approved by the commissioner. Any person not in business two years prior to the filing of the application shall submit a statement in the form and manner prescribed by the commissioner sufficient to demonstrate compliance with subsection (e).

(e) In addition, each person submitting an application shall meet the following requirements:

(1) The tangible net worth of such person shall be at all times not less than $250,000, as shown by an audited financial statement and certified to by an owner, a partner or officer of the corporation or other entity filed in the form and manner prescribed by the commissioner. A consolidated financial statement from an applicant's holding company may be accepted by the commissioner. The commissioner may require any person to file a statement at any other time upon request;

(2) such person shall deposit and at all times keep on deposit with a bank in this state approved by the commissioner, cash or securities satisfactory to the commissioner in an amount not less than $200,000. The commissioner may increase the amount of cash or securities required up to a maximum of $1,000,000 upon the basis of:

(A) The volume of money transmission business transacted in this state by such person; or

(B) the impaired financial condition of a licensee, as evidenced by a reduction in net worth or financial losses;

(3) in lieu of the deposit of cash or securities required by this subsection, such person may give a surety bond in an amount equal to that required for the deposit of cash or securities, in a form satisfactory to the commissioner and issued by a company authorized to do business in this state, which bond shall be payable to the office of the state bank commissioner and be filed with the commissioner; and

(4) such person shall submit a list to the commissioner of the names and addresses of other persons who are authorized to act as agents for transactions with Kansas residents.

(f) The commissioner has the discretion to determine the completeness of any application submitted pursuant to this act. In making the de-

termination, the commissioner shall take into consideration compliance with all requirements set out in this section and any other facts and circumstances that the commissioner deems appropriate.

(1) If the applicant fails to complete the application for a new license or for a change of control of a license within 60 days after the commissioner provides written notice of the incomplete application, the application will be considered abandoned and the application fee will not be refunded. An applicant whose application is abandoned under this section may reapply to obtain a license.

(2) If the applicant fails to file a complete renewal application on or before December 31 of the year, the license will be deemed to expire on December 31 of the year.

(g) The deposit of cash, securities or surety bond required by this section shall be subject to:

(1) Payment to the commissioner for the protection and benefit of purchasers of money transmission services, purchasers or holders of payment instruments furnished by such person, and those for whom such person has agreed to act as agent in transmission of monetary value and to secure the faithful performance of the obligations of such person in respect to the receipt, handling, transmission and payment of monetary value; and

(2) payment to the commissioner for satisfaction of any expenses, fines, fees or refunds due pursuant to this act, levied by the commissioner or that become lawfully due pursuant to a final judgment or order.

(h) The aggregate liability of the surety for all breaches of the conditions of the bond, in no event, shall exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. The commissioner or any aggrieved party may enforce claims against such deposit of cash or securities or surety bond. So long as the depositing person is not in violation of this act, such person shall be permitted to receive all interest and dividends on the deposit and shall have the right to substitute other securities satisfactory to the commissioner. If the deposit is made with a bank, any custodial fees shall be paid by such person.

(i) (1) The commissioner shall have the authority to examine the books and records of any person operating in accordance with the provisions of this act, at such person's expense, to verify compliance with state and federal law.

(2) The commissioner may require any person operating in accordance with the provisions of this act to maintain such documents and records as necessary to verify compliance with this act, or any other applicable state or federal law or regulation.

(3) For purposes of investigation, examination or other proceeding under this act, the commissioner may administer or cause to be administered oaths, subpoena witnesses and documents, compel the attendance of witnesses, take evidence and require the production of any document that the commissioner determines to be relevant to the inquiry.

(j) Except as authorized with regard to the appointment of agents, a licensee is prohibited from transferring, assigning, allowing another person to use the licensee's license, or aiding any person who does not hold a valid license under this act in engaging in the business of money transmission.

Sec. 13. K.S.A. 9-513e is hereby amended to read as follows: 9-513e. (a) Each licensee under this act shall within 30 days report to the commissioner any change, for whatever reason, in the executive officers or directors, including in its report a statement of the past and current business and professional affiliations of the new executive officers or directors.

(b) The commissioner may require fingerprinting of any ~~new~~ executive ~~officer or director, deemed necessary by the commissioner~~ *in accordance with section 2, and amendments thereto*. ~~Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or other jurisdiction.~~

(c) ~~The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person.~~

~~(d)~~ For purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have with the individual states, the commissioner may use a nationwide multi-state licensing system and registry for requesting information from and distributing information to the department of justice or any governmental agency.

~~(e) Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application. If the applicant is a publicly traded corporation or a subsidiary of a publicly traded corporation, no fingerprint check shall be required.~~

~~(f)~~*(d)* The provisions of this section shall be part of and supplemental to the Kansas money transmitter act.

Sec. 14. K.S.A. 9-1719 is hereby amended to read as follows: 9-1719. As used in K.S.A. 9-1719 to 9-1722, inclusive, and amendments thereto:

(a) *"Applicant" means a person who has submitted a change of control application pursuant to K.S.A. 9-1721, and amendments thereto.*

(b) "Control" means the power to:

(1) Vote 25% or more of any class of voting shares;

(2) direct, in any manner, the election of a majority of the directors; or

(3) direct or exercise a controlling influence over the management or policies.

~~(b)~~*(c)* "Person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed in this subsection.

Sec. 15. K.S.A. 9-1722 is hereby amended to read as follows: 9-1722. (a) A change of control application filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:

(1) The identity, personal history, business background and experience of each person by or for whom the change of control is to be made, including the material business activities and affiliations during the past five years and a description of any material pending legal or administrative proceedings in which the person is a party and any criminal indictment or conviction of such person by a state or federal court;

(2) a statement of the assets and liabilities of each person by or for whom the change of control is to be made, along with any related statements of income and source and application of funds, as of a date not more than 90 days prior to the date of the application. Individuals who own 10% or more shares in a bank holding company, as defined in K.S.A. 9-519, and amendments thereto, shall file the financial information required by this paragraph;

(3) the terms and conditions of the proposed change of control and the manner in which such change of control is to be made;

(4) the identity, source and amount of the funds or other considerations used or to be used in making the change of control and, if any part of these funds or other considerations has been or is to be borrowed or otherwise obtained for such purpose, a description of the transaction, the names of the parties, and any arrangements, agreements or understandings with such persons;

(5) any plans or proposals which any applicant may have to liquidate the bank or trust company or to make any other major change in the bank's or trust company's business or corporate structure or management;

(6) the identification of any person employed, retained or to be compensated by any party or by any person on such person's behalf to make solicitations or recommendations to stockholders for the purpose of assisting in the change of control and a brief description of the terms of such employment, retainer or arrangement for compensation;

(7) copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed change of control;

(8) when applicable, the certified copies of the stockholder proceedings showing a majority of the outstanding voting stock was voted in favor of the change of control; and

(9) any additional relevant information in the form and manner prescribed by the commissioner.

(b) A merger transaction application filed pursuant to K.S.A. 9-1721, and amendments thereto, shall contain the following information:

(1) The structure, terms and conditions and financing arrangements of the proposed merger transaction;

(2) a complete and final copy of the merger transaction agreement;

(3) certified copies of the stockholder proceedings showing a majority of the outstanding voting stock of the banks or trust companies in the merger transaction was voted in favor of the merger transaction;

(4) a list of directors and senior executive officers of the resulting bank or trust company;

(5) one year pro forma statements of financial conditions and future prospects of the resulting bank or trust company, including capital positions;

(6) how the merger transaction will meet the convenience and needs of the community; and

(7) any other relevant information in the form and manner prescribed by the commissioner.

(c) With regard to any trust company which files a notice pursuant to this section, the commissioner may require fingerprinting of ~~any proposed officer, director, shareholder or any other person deemed necessary by the commissioner~~ *an applicant in accordance with section 2, and amendments thereto*. ~~Such fingerprints may be submitted to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of arrests and convictions in this state or any other jurisdiction. The commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons proposing to acquire the trust company. Whenever the commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.~~

(d) The commissioner may accept an application filed with the federal reserve bank or federal deposit insurance corporation in lieu of an application filed pursuant to subsection (a). The commissioner may, in addition to such application, request additional relevant information.

(e) At the time of filing an application pursuant to K.S.A. 9-1721, and amendments thereto, or an application filed pursuant to subsection (d),

the applicant shall pay to the commissioner a fee in an amount established pursuant to K.S.A. 9-1726, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 16. K.S.A. 9-2201 is hereby amended to read as follows: 9-2201. As used in this act:

(a) *"Applicant" means a person who has submitted an application for a license to engage in mortgage business or a person who has submitted an application for registration to conduct mortgage business in this state as a loan originator.*

(b) "Branch office" means a place of business, other than a principal place of business, where the mortgage company maintains a physical location for the purpose of conducting mortgage business with the public.

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

~~(c)~~*(d)* "Individual" means a human being.

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

~~(e)~~*(f)* "Licensee" means a person who is licensed by the commissioner as a mortgage company.

~~(f)~~*(g)* "Loan originator" means an individual:

(1) Who engages in mortgage business on behalf of a single mortgage company;

(2) whose conduct of mortgage business is the responsibility of the licensee;

(3) who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain or in the expectation of compensation or gain; and

(4) whose job responsibilities include contact with borrowers during the loan origination process, which can include soliciting, negotiating, acquiring, arranging or making mortgage loans for others, obtaining personal or financial information, assisting with the preparation of mortgage loan applications or other documents, quoting loan rates or terms or providing required disclosures. It does not include any individual engaged solely as a loan processor or underwriter.

~~(g)~~*(h)* "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction and subject to the supervision and instruction of a person registered or exempt from registration under this act.

(1) For purposes of this subsection, the term "clerical or support duties" may include subsequent to the receipt of a mortgage loan application:

(A) The receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(B) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

(2) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such individual can or will perform any of the activities of a loan originator.

~~(h)~~*(i)* "Mortgage business" means engaging in, or holding out to the public as willing to engage in, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, the business of making, originating, servicing, soliciting, placing, negotiating, acquiring, selling, arranging for others, or holding the rights to or offering to solicit, place, negotiate, acquire, sell or arrange for others, mortgage loans in the primary market.

~~(i)~~*(j)* "Mortgage company" means a person engaged in mortgage business.

~~(j)~~*(k)* "Mortgage loan" means a loan or agreement to extend credit made to one or more individuals which is secured by a first or subordinate mortgage, deed of trust, contract for deed or other similar instrument or document representing a security interest or lien, except as provided for in K.S.A. 60-1101 through 60-1110, and amendments thereto, upon any lot intended for residential purposes or a one-to-four family dwelling as defined in 15 U.S.C. § 1602(w), located in this state, occupied or intended to be occupied for residential purposes by the owner, including the renewal or refinancing of any such loan.

~~(k)~~*(l)* "Mortgage loan application" means the submission of a consumer's financial information, including, but not limited to, the consumer's name, income and social security number, to obtain a credit report, the property address, an estimate of the value of the property and the mortgage loan amount sought for the purpose of obtaining an extension of credit.

~~(l)~~*(m)* "Mortgage servicer" means any person engaged in mortgage servicing.

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

~~(n)~~*(o)* "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of mortgage loan originators.

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

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

~~(q)~~*(r)* "Primary market" means the market wherein mortgage business is conducted including activities conducted by any person who assumes or accepts any mortgage business responsibilities of the original parties to the transaction.

~~(r)~~*(s)* "Principal place of business" means a place of business where mortgage business is conducted, which has been designated by a licensee as the primary headquarters from which all mortgage business and administrative activities are managed and directed.

~~(s)~~*(t)* "Promotional items" means pens, pencils, hats and other such novelty items.

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

~~(u)~~*(v)* "Remote location" means a location other than the principal place of business or a branch office where a licensed mortgage company's employee or independent contractor is authorized by such company to engage in mortgage business. A remote location is not considered a branch office.

~~(v)~~*(w)* "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 17. K.S.A. 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 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 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 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~~,~~ *or* licensee~~, members thereof if a copartnership or association, or officers and direc-~~

~~tors thereof if a corporation, or any agent acting on their behalf, or other person as deemed appropriate by the commissioner~~ *in accordance with section 2, and amendments thereto*. ~~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 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; 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 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. 18. K.S.A. 9-2301 is hereby amended to read as follows: 9-2301. (a) The provisions of K.S.A. 9-2301 through 9-2327, 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 the 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 owner 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) *"director" means a person designated as a member of the board of directors pursuant to K.S.A. 9-2306, and amendments thereto;*

(7) "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)~~*(8)* "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)~~*(9)* "fidfin," "fidfin services" or "fidfin transactions" means the financing of a fidfin trust or the acquisition of alternative assets on behalf of and through a fidfin trust, or both, as provided in K.S.A. 9-2311, and amendments thereto, including loans, extensions of credit and direct investments;

~~(9)~~*(10)* "fidfin trust" means a trust created to facilitate the delivery of fidfin services by a fiduciary financial institution;

~~(10)~~*(11)* "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)~~*(12)* "instrument" means any document creating a fidfin trust or alternative asset custody account;

~~(12)~~*(13) "officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a bank, trust company or fiduciary financial institution,*

whether or not the officer has an official title or if the officer is serving without salary or other compensation. "Officer" includes the chairperson of the board, president, vice president, cashier, secretary and treasurer of a bank, trust company or fiduciary financial institution;

(14) "organizer" means a person who filed the fiduciary financial institution formation documents;

(15) "out-of-state bank" means a national or state bank, savings and loan association or savings bank not incorporated under the laws of Kansas;

~~(13)~~*(16)* "out-of-state financial institution" means an out-of-state bank or an out-of-state trust company;

~~(14)~~*(17)* "out-of-state trust company" means a national or state trust company not incorporated under the laws of Kansas;

~~(15)~~*(18)* (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 K.S.A. 9-2309, 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 K.S.A. 9-2309, 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 K.S.A. 9-2309, 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;

~~(16)~~*(19)* "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 K.S.A. 9-2302, 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 K.S.A. 9-2302, and amendments thereto, to conduct any fidfin transactions in accordance with K.S.A. 9-2311, and amendments thereto, including the distributions required therein;

~~(17)~~*(20)* "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;

~~(18)~~*(21)* "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

~~(19)~~*(22)* the definitions of K.S.A. 9-701, and amendments thereto, apply to fiduciary financial institutions except as otherwise provided in this act.

Sec. 19. K.S.A. 9-2302 is hereby amended to read as follows: 9-2302. (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 K.S.A. 9-2325, 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) (1) No Kansas-chartered state bank, Kansas-chartered state 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.

(2) Except as otherwise provided by this subsection, any trust company whose application has been approved in accordance with this section and any out-of-state trust company engaging in fidfin transactions in this state shall be considered a fiduciary financial institution for the purposes of this act, shall have all rights and powers granted to a fiduciary financial institution under this act and shall owe all duties and obligations imposed on fiduciary financial institutions under this act, including, but not limited to, the fiduciary duties imposed under K.S.A. 9-2311 and 9-2313, and amendments thereto, and the requirements of K.S.A. 9-2302(c)(5) and (6), and amendments thereto.

(3) Any bank whose application has been approved in accordance with this section and any out-of-state bank that engages in fidfin transactions in this state shall have a separate department for handling fidfin transactions. Except as otherwise provided by this subsection, such separate department shall be considered a fiduciary financial institution for the purposes of this act, shall have all rights and powers granted to a fiduciary financial institution under this act and shall owe all duties and obligations imposed on fiduciary financial institutions under this act, including, but not limited to, the fiduciary duties imposed under K.S.A. 9-2311 and 9-2313, and amendments thereto, and the requirements of K.S.A. 9-2302(c)(5) and (6), and amendments thereto.

(4) Notwithstanding the provisions of paragraphs (2) and (3):

(A) A bank or trust company whose application has been approved in accordance with this section or an out-of-state financial institution that engages in fidfin transactions in this state shall not be subject to the provisions of K.S.A. 9-2305, 9-2306 or 9-2308, and amendments thereto; and

(B) the commissioner shall not examine or require applications, reports or other filings from an out-of-state financial institution that is subject to oversight of such financial institution's fidfin transactions by a governmental agency of the jurisdiction that chartered the out-of-state financial institution.

(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 K.S.A. 9-2301, and amendments thereto;

(5) fiduciary financial institution has committed to structure any fidfin transactions to ensure that qualified charitable distributions, as defined in K.S.A. 2023 Supp. 79-32,283, 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 or organizer of the proposed fiduciary financial institution *in accordance with section 2, and amendments thereto*. ~~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 K.S.A. 9-2311(f), 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 K.S.A. 9-2324, 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 K.S.A. 2023 Supp. 79-32,283, 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. 20. K.S.A. 12-1,120 is hereby amended to read as follows: 12-1,120. (a) Each person holding office as chief of police of any city in this state shall be fingerprinted as provided by this section *and section 1, and amendments thereto*.

(b) Before assuming the office of chief of police of any city in this state, a person shall be fingerprinted as provided by this section *and section 1, and amendments thereto*.

(c) Fingerprinting pursuant to this section shall be done by the law enforcement agency of the city in the presence of the city clerk. ~~The city clerk shall forthwith forward the fingerprints to the Kansas bureau of investigation for a search of state and national fingerprint files to determine whether the person qualifies for admission to the law enforcement training center pursuant to subsection (f) of K.S.A. 74-5607, and amendments thereto. The Kansas bureau of investigation shall certify any conviction record of the person, or lack thereof, found as a result of such search to the city clerk and, if such a record is found, to the attorney general.~~

~~(d) Fingerprints taken and submitted pursuant to this section shall be on forms approved by the attorney general.~~

~~(e) The cost of a search of fingerprint files pursuant to this section shall be paid by the person being fingerprinted.~~

Sec. 21. K.S.A. 12-1679 is hereby amended to read as follows: 12-1679. (a) As used in this act: (1) "Municipality" shall mean any incorporated city or county of this state;

(2) "Merchants or security policeman" or "merchants or security police force or agency" shall mean any person engaged for hire in the business of guarding, watching, patrolling or otherwise attempting to provide security for the real or personal property of another person; and

(3) "Person" shall mean any individual, partnership, association, firm, corporation or other business entity.

(b) Every municipality which requires a license pursuant to this act shall acquire or collect the fingerprints of any person who applies for a

merchants or security policeman's license from such municipality *in accordance with section 2, and amendments thereto*. ~~The municipality shall submit the applicant's fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purpose of determining whether the applicant has a criminal record.~~

(c) No municipality shall license, permit or otherwise authorize or allow any person to do business within such municipality as a merchants or security policeman or as a merchants or security police force or agency, unless every motor vehicle, as defined by K.S.A. 8-1437, and amendments thereto, which is used in any way by such person while doing business as a merchants or security policeman or police force or agency is properly registered.

Sec. 22. K.S.A. 16a-6-104 is hereby amended to read as follows: 16a-6-104. This act shall be administered by the ~~consumer credit commissioner of Kansas~~ *deputy commissioner for consumer and mortgage lending* who is also referred to as the administrator.

(1) In addition to other powers granted by this act, the administrator within the limitations provided by law may:

(a) Receive and act on complaints, take action designed to obtain voluntary compliance with the provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto, or commence proceedings on the administrator's own initiative;

(b) counsel persons and groups on their rights and duties under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto;

(c) establish programs for the education of consumers with respect to credit practices and problems and as a condition in settlements of investigations or examinations, the administrator may receive a payment designated for consumer education to be expended as directed by the administrator for such purpose;

(d) make studies appropriate to effectuate the purposes and policies of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto;

(e) adopt, amend and revoke rules and regulations to carry out the specific provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto, and to implement the requirements of the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110-289);

(f) issue, amend and revoke written administrative interpretations. Such written administrative interpretations shall be approved by the attorney general and published in the Kansas register within 15 days of issuance. The administrator shall annually publish all written administrative interpretations in effect;

(g) maintain offices within this state; ~~and~~

(h) appoint any necessary attorneys, hearing examiners, clerks, and other employees and agents and fix their compensation, and authorize

attorneys appointed under this section to appear for and represent the administrator in court;

(i) examine periodically at intervals the administrator deems appropriate the loans, business and records of every licensee, registrant or person filing notification pursuant to K.S.A. 16a-6-201 through 16a-6-203, and amendments thereto, except licensees which are supervised financial organizations. The official or agency responsible for the supervision of each supervised financial organization shall examine the loans, business and records of each such organization in the manner and periodically at intervals prescribed by the administrator. In addition, for the purpose of discovering violations of K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, or securing information lawfully required, the administrator or the official or agency to whose supervision the organization is subject to K.S.A. 16a-6-105, and amendments thereto, may at any time investigate the loans, business and records of any supervised lender. For examination purposes the administrator shall have free and reasonable access to the offices, places of business and records of the lender, registrant or person filing notification and the administrator may control access to any documents and records of a licensee, registrant or person filing notification under examination;

(j) refer such evidence as may be available concerning violations of this act or of any rule and regulation or order to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the administrator prosecute or assist in the prosecution of such violation on behalf of the state. Upon approval of the administrator, such employee shall be appointed special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys, and such other powers and duties as are lawfully delegated to such special prosecutors by the attorney general or the county attorney or district attorney;

(k) if deemed necessary by the administrator, require fingerprinting of any applicant~~, licensee, members thereof if a copartnership or association, or officers and directors thereof if a corporation, or any agent or other person acting on their behalf. The administrator, or the administrator'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~~ *in accordance with section 2, and amendments thereto*. For purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain with the individual states, the administrator 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. *As used in this paragraph, "applicant" means a licensee, a member of a licensee if such licensee is a copartnership or association, an officer or director if such licensee is a corporation or an agent or other person acting on behalf of a licensee*;

(l) exchange information regarding the administration of this act with any agency of the United States or any state which regulates the licensee, registrant or person required to file notification, or who administers statutes, rules and regulations or other programs related to consumer credit and to enter into information sharing arrangements with other governmental agencies or associations representing governmental agencies which are deemed necessary or beneficial to the administration of this act;

(m) 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 administrator or the administrator's designee and may be made a condition of the application approval and renewal;

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

(o) use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing any information regarding residential mortgage loan originator registration or supervised lender licensing to and from any source so directed by the administrator;

(p) 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 the act and to take such other actions as may be reasonably necessary to participate in the nationwide mortgage licensing system and registry. The administrator shall regularly report violations of law, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system and registry, and make publicly available the proposed budget, fees, and audited financial statements of the nationwide mortgage licensing system and

registry as may be prepared by the nationwide mortgage licensing system and registry and provided to the administrator;

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

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

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

(2) The administrator shall enforce the provisions of this act and the rules and regulations and interpretations adopted thereunder with respect to a creditor, unless the creditor's compliance is regulated exclusively or primarily by another state or federal agency.

(3) To keep the administrator's rules and regulations in harmony with the rules of administrators in other jurisdictions which enact the revised uniform consumer credit code, the administrator, so far as is consistent with the purposes, policies and provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto, may:

(a) Before adopting, amending and revoking rules and regulations, advise and consult with administrators in other jurisdictions which enact the uniform consumer credit code; and

(b) in adopting, amending and revoking rules and regulations, take into consideration the rules of administrators in other jurisdictions which enact the revised uniform consumer credit code.

(4) Except for refund of an excess charge, no liability is imposed under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto, for an act done or omitted in conformity with a rule and regulation or written administrative interpretation of the administrator 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.

(5) The administrator prior to December 1 of each year shall establish such fees as are authorized under the provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and amendments thereto, for the ensuing

calendar year in such amounts as the administrator may determine to be sufficient to meet the budget requirements of the administrator for each fiscal year.

Sec. 23. K.S.A. 17-2234 is hereby amended to read as follows: 17-2234. (a) (1) There is hereby established the state department of credit unions, which shall be under the administrative supervision of the administrator as directed by law. The administrator may appoint or employ an attorney to assist the department in its functions under this act, and in accordance with the civil service law, such special assistants, deputies or examiners, and other employees, as may be necessary for the purpose of administering and enforcing the provisions of this act.

(2) The administrator is hereby authorized to appoint financial examiners and other staff who shall be in the unclassified service under the Kansas civil service act. The administrator's salary schedule for unclassified positions shall be reported to the credit union council annually.

(b) Nothing in subsection (a) shall affect the classified status of any person employed with the department of credit unions on the day immediately preceding the effective day of this act.

(c) Each ~~special assistant, deputy, examiner and other such employees as may be necessary for the purpose of administering and enforcing the provisions of this act~~ *employee* shall submit to a ~~security~~ *state and national criminal* background check prior to being employed in such position *in accordance with section 2, and amendments thereto*. ~~Upon the commencement of the interview process, every candidate shall be given a written notice that a security background check is required. The security background check shall be limited to criminal history record information as provided by K.S.A. 22-4701 et seq., and amendments thereto. If the criminal history record information reveals any conviction of crimes of dishonesty, such conviction may be used to disqualify a candidate for any position within the office of the department of credit unions. If the criminal history record information is used to disqualify a candidate, the candidate shall be informed in writing of that decision. Upon determining whether to hire or disqualify a candidate, the candidate's criminal history record information report shall be destroyed. The candidate's personnel file shall only contain a statement that a security background check was performed and the date thereof.~~

(d) ~~The state department of credit unions shall submit an employment candidate's fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purpose of determining whether the applicant has a criminal record.~~ *As used in this section, "candidate" means a person who has applied for a position with or is currently employed by the state department of credit unions as a deputy or an examiner.*

Sec. 24. K.S.A. 19-826 is hereby amended to read as follows: 19-826. (a) Before January 1, 1988, each person holding office as sheriff of any county in this state on the effective date of this act shall be fingerprinted as provided by this section.

(b) Before assuming the office of sheriff of any county in this state, a person, other than an undersheriff or county clerk temporarily serving as sheriff pursuant to K.S.A. 19-804 or 19-804a, and amendments thereto, shall be fingerprinted as provided by this section *and section 1, and amendments thereto*. If the person is a candidate for the office of sheriff, such person shall be fingerprinted at the time of the filing of:

(1) Nomination papers or a declaration of intent to become such a candidate;

(2) a certificate of nomination as such a candidate of a political party; or

(3) a certificate of election to fill a vacancy in such a candidacy.

(c) *(1)* Fingerprinting pursuant to this section shall be done by the law enforcement agency of the county in the presence of the county election officer. ~~The county election officer shall forthwith forward the fingerprints to the Kansas bureau of investigation for a search of state and national fingerprint files to determine whether the person qualifies for the office of sheriff pursuant to subsection (a)(3) of K.S.A. 19-801b, and amendments thereto. The Kansas bureau of investigation shall certify any conviction record of the person, or lack thereof, found as a result of such search to the county election officer and, if such a record is found, to the attorney general.~~

(2) If the person is a candidate for the office of sheriff and is found, as a result of the search, to be unqualified for such office, the county election officer shall notify the person within three days. Such person found to be unqualified for such office shall have five days from the date of the notice given by the Kansas bureau of investigation to:

~~(1)~~ *(A)* Present evidence to the county election officer showing error in the conviction record certified by the Kansas bureau of investigation; and

~~(2)~~ *(B)* seek correction of any such error by the Kansas bureau of investigation.

(3) If there is no error in such conviction record, the county election officer shall terminate the person's candidacy and remove the person's name from the ballot.

(d) Fingerprints taken and submitted pursuant to this section shall be on forms approved by the attorney general.

(e) The cost of a search of fingerprint files pursuant to this section shall be paid by the person being fingerprinted.

Sec. 25. K.S.A. 39-969 is hereby amended to read as follows: 39-969. (a) The secretary for aging and disability services shall upon request re-

ceive from the Kansas bureau of investigation *in accordance with section 3, and amendments thereto*, without charge, such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of an operator.

(b) This section shall be *a* part of and supplemental to the adult care home licensure act.

Sec. 26. K.S.A. 39-970 is hereby amended to read as follows: 39-970. (a) As used in this section:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home or adult day care facility that is required to be licensed to operate by the secretary for aging and disability services.

(2) "Applicant" means an individual who applies for employment with an adult care home or applies to work for an employment agency or as an independent contractor who provides staff to an adult care home.

(3) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(4) "Department" means the Kansas department for aging and disability services.

(5) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(6) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(7) "Employment agency" means an organization or entity that has a contracted relationship with an adult care home to provide staff with direct access to consumers.

(8) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to an adult care home.

(9) "Secretary" means the secretary for aging and disability services.

(b) (1) No person shall knowingly operate an adult care home if, in the adult care home, there works any person who has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having committed an act that if done by an adult would constitute the

commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection (b)(2)(C) shall not apply to any person who is employed by an adult care home on or before July 1, 2010, and while continuously employed by the same adult care home or to any person during or upon successful completion of a diversion agreement.

(2) A person operating an adult care home may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in subsection (b)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6420, and amendments thereto, except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(3) A person operating an adult care home may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 21-5924, and amendments thereto; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto.

The provisions of this paragraph (3) shall not apply to any person who is employed by an adult care home on or before July 1, 2018, and is contin-

uously employed by the same adult care home or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(c) No person shall operate an adult care home if such person has been found to be in need of a guardian or conservator, or both as provided in the act for obtaining a guardian or a conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in an adult care home to the secretary for aging and disability services *in accordance with section 2, and amendments thereto*. ~~The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.~~

(2) The department ~~shall~~ *may* require an applicant to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. 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. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the adult care home.~~

(3) An applicant for employment in an adult care home shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a *reasonable* fee ~~not to exceed $19 of the total cost~~ for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

(e) For the purpose of complying with this section, the operator of an adult care home shall request from the Kansas department for aging and disability services an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the operator of an adult care home shall receive from any employment agency or independent contractor that provides employees to work in the adult care home written certification that such employees are not prohibited from working in the adult care home under this section. For the purpose of complying with this section, a person who operates an adult care home may hire an applicant for provisional employment on a one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of a request for information under this subsection. A provisional employee may only be supervised by an employee that has completed all training required by federal regulations, rules and regulations of the department and the adult care home's policies and procedures. No adult care home, the operator or employees of an adult care home or an employment agency or an independent contractor shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such adult care home's compliance with the provisions of this section if such adult care home or employment agency acts in good faith to comply with this section.

(f) The secretary for aging and disability services shall provide each operator requesting information under this section with a pass or fail determination after review of any criminal history record information

in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

(g) A person who volunteers in an adult care home shall not be subject to the provisions of this section unless the volunteer performs equivalent functions to those performed by direct access employees.

(h) No person who has been continuously employed by the same adult care home since July 1, 1992, shall be subject to the provisions of this section while employed by such adult care home.

(i) The operator of an adult care home shall not be required under this section to conduct a criminal history record check on an applicant for employment with the adult care home if the applicant has been the subject of a criminal history record check under this act within one year prior to the application for employment with the adult care home.

(j) No person who is in the custody of the secretary of corrections and who provides services, under direct supervision in nonpatient areas, on the grounds or other areas designated by the superintendent of the Kansas soldiers' home or the Kansas veterans' home shall be subject to the provisions of this section while providing such services.

(k) (1) All fees charged by the secretary for criminal history record checks conducted pursuant to this section shall be established by rules and regulations of the secretary.

(2) All moneys collected and remitted to the Kansas department for aging and disability services for fees charged for criminal history record checks conducted 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 into the state treasury to the credit of the state licensure fee fund created by K.S.A. 39-930, and amendments thereto.

(l) The Kansas department for aging and disability services may implement the amendments made to this section by this act in phases for different categories of employers. The department shall adopt rules and regulations establishing dates and procedures for the implementation of the criminal history record checks required by this section, and such dates may be staggered to facilitate implementation of the criminal history record checks required by this section.

(m) Upon authorization by the secretary for aging and disability services, other state agencies may access an internet-based application portal that is operated and maintained by the Kansas department for aging and disability services for purposes of processing criminal history record information requests in accordance with this section. Agencies may not share criminal history record information or the resulting pass or fail determinations with any other agency. The secretary for aging and disability

services may charge an authorized agency the amount of $1 per request made pursuant to this subsection.

(n) This section shall be *a* part of and supplemental to the adult care home licensure act.

Sec. 27. K.S.A. 39-2009 is hereby amended to read as follows: 39-2009. (a) As used in this section:

(1) "Applicant" means an individual who applies for employment with a center, facility, hospital or a provider of services or applies to work for an employment agency or as an independent contractor that provides staff to a center, facility, hospital or a provider of services.

(2) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(3) "Department" means the Kansas department for aging and disability services.

(4) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(5) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(6) "Employment agency" means an organization or entity that has a contracted relationship with a center, hospital, facility or provider of services to provide staff with direct access to consumers.

(7) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to a center, facility, hospital or provider of services.

(b) (1) No licensee shall knowingly operate a center, facility, hospital or be a provider of services if any person who works in the center, facility, hospital or for a provider of services has adverse findings on any state or national registry, as defined in rules and regulations adopted by the secretary for aging and disability services, or has been convicted of or has been adjudicated a juvenile offender because of having ~~committing~~ *committed* an act that if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto, second degree murder, pursuant to K.S.A. 21-3402(a), prior to its repeal, or K.S.A. 21-5403(a), and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or K.S.A. 21-5404, and

amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, mistreatment of a dependent adult or mistreatment of an elder person, pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 21-5417, and amendments thereto, human trafficking, pursuant to K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto, aggravated human trafficking, pursuant to K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to its repeal, or K.S.A. 21-5503, and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its repeal, or K.S.A. 21-5506(a), and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504, prior to its repeal, or K.S.A. 21-5506(b), and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506, prior to its repeal, or K.S.A. 21-5504(b), and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510, prior to its repeal, or K.S.A. 21-5508(a), and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511, prior to its repeal, or K.S.A. 21-5508(b), and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 21-5510, and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517, prior to its repeal, or K.S.A. 21-5505(a), and amendments thereto, aggravated sexual battery, pursuant to K.S.A. 21-3518, prior to its repeal, or K.S.A. 21-5505(b), and amendments thereto, commercial sexual exploitation of a child, pursuant to K.S.A. 21-6422, and amendments thereto, an attempt to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, a conspiracy to commit any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of other states or the federal government.

(2) A licensee operating a center, facility or hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of

chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in paragraph (1); (B) article 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6420, and amendments thereto, except those crimes listed in paragraph (1); (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and the criteria to be utilized by the secretary in evaluating any such waiver request.

(3) A licensee operating a center, facility, hospital or as a provider of services may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 21-5924; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A. 21-3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 2010 Supp. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this paragraph shall not apply to any person who is employed by a center, facility, hospital or provider of services on or before July 1, 2018, and is continuously employed by the same center, facility, hospital or provider of services or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(c) No licensee shall operate a center, facility, hospital or be a provider of services if such person has been found to be an adult with an impairment

in need of a guardian or a conservator, or both, as provided in the act for obtaining a guardian or conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in a center, facility, hospital or for a provider of services to the secretary for aging and disability services *in accordance with section 2, and amendments thereto*. ~~The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.~~

(2) The department ~~shall~~ *may* require an applicant to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. 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. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the center, facility, hospital or for a provider of services.~~

(3) An applicant for employment in ~~an~~ *a* center, facility, hospital or for a provider of services shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a *reasonable* fee ~~not to exceed $19 of the total cost~~ for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

(d) The secretary shall provide each licensee requesting information under this section with a pass or fail determination after review of any criminal history record information in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

(e) Any licensee or member of the staff who receives information concerning the fitness or unfitness of any person shall keep such information confidential, except that the staff person may disclose such information to the person who is the subject of the request for information. A violation of this subsection shall be an unclassified misdemeanor punishable by a fine of $100.

(f) For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall request from the Kansas department for aging and disability services an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, the licensee operating a center, facility, hospital or a provider of services shall receive from any employment agency or independent contractor that provides employees to work in the center, facility, hospital or for the provider of services written certification that such employees are not prohibited from working in the center, facility, hospital or for the provider of services under this section. For the purpose of complying with this section, a licensee may hire an applicant for provisional employment on a one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of an eligibility determination under this subsection. A provisional employee may only be supervised by an employee who has completed all training required by federal regulations, department rules and regulations and the center's, facility's, hospital's or provider of services' policies and procedures. No licensee, its contractors or employees, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such licensee's compliance with the provisions of this section if such licensee acts in good faith to comply with this section.

(g) The licensee operating a center, facility, hospital or a provider of services shall not require an applicant under this section to be finger-

printed, if the applicant has been the subject of a criminal history record check under this act within one year prior to the application for employment with the licensee operating a center, facility, hospital or a provider of services and has maintained a record of continuous employment, with no lapse of employment of over 90 days in any center, facility, hospital or a provider of services covered by this act.

Sec. 28. K.S.A. 2023 Supp. 40-4905 is hereby amended to read as follows: 40-4905. (a) Subject to the provisions of K.S.A. 40-4904, and amendments thereto, it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.

(b) Any person applying for a resident insurance agent license shall make application on a form prescribed by the commissioner. The applicant shall declare under penalty of perjury that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the commissioner shall determine that the applicant:

(1) Is at least 18 years of age;

(2) has not committed any act that is grounds for denial pursuant to this section or suspension or revocation pursuant to K.S.A. 40-4909, and amendments thereto;

(3) has paid a nonrefundable fee set by the commissioner in an amount not to exceed $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 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.

(d) The commissioner may require the applicant to furnish any document or other material reasonably necessary to verify the information contained in an application.

(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.

(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.

(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.

(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 *in accordance with section 2, and amendments thereto*. ~~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 shall 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)~~*(2) Whenever the commissioner requires fingerprinting, a background check, or both, any associated costs shall be paid by the applicant.*

(3) 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 (h)(1) and (h)(2)~~ *this subsection*.

(i) Not later than December 1 of each year, the commissioner shall set and publish in the Kansas register the application fee required pursuant to subsection (b) for the next calendar year.

Sec. 29. K.S.A. 40-5502 is hereby amended to read as follows: 40-5502. As used in K.S.A. 40-5501 through 40-5519, and amendments thereto:

(a) *"Applicant" means a person who has submitted an application to become a licensed public adjuster in accordance with this act.*

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

~~(b)~~*(c)* "Catastrophic disaster" means, according to the federal response plan, an event:

(1) Declared by the president of the United States or governor of Kansas;

(2) results in large numbers of deaths and injuries;

(3) causes extensive damage or destruction of facilities that provide and sustain human needs;

(4) produces an overwhelming demand on state and local response resources and mechanisms;

(5) causes a severe long-term effect on general economic activity; and

(6) severely affects state, local and private sector capabilities to begin and sustain response activities.

~~(c)~~*(d)* "Commissioner" means the state commissioner of insurance.

~~(d)~~*(e)* "FBI" means the federal bureau of investigation.

~~(e)~~*(f)* "Fingerprint" means an impression of the lines on a finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.

~~(f)~~*(g)* "Home state" means the District of Columbia and any state or territory of the United States in which a public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a law governing public adjusters substantially similar to this act, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

~~(g)~~*(h)* "KBI" means the Kansas bureau of investigation.

~~(h)~~*(i)* "Licensed public adjuster" means a public adjuster licensed in accordance with this act.

~~(i)~~*(j)* "NAIC" means the national association of insurance commissioners and its affiliates and subsidiaries.

~~(j)~~*(k)* "Person" means an individual or a business entity.

~~(k)~~*(l)* "Public adjuster" means any individual who:

(1) For compensation or any other thing of value, and solely in relation to first party claims arising under insurance claims or contracts that insure the real or personal property of the insured, aids or acts on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by and limited to commercial lines insurance contracts;

(2) advertises for employment as a public adjuster of insurance claims or directly or indirectly solicits business or represents to the public that such person is a public adjuster of first party insurance claims for losses or damages to real or personal property covered by and limited to commercial lines insurance contracts; or

(3) for compensation or any other thing of value, investigates or adjusts losses or advises an insured about first party claims for losses or damages to real or personal property of the insured covered by and limited to commercial lines insurance contracts, for another person engaged in the business of adjusting losses or damages covered by and limited to commercial lines insurance contracts.

~~(l)~~*(m)* "Uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

~~(m)~~*(n)* "Uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

Sec. 30. K.S.A. 40-5504 is hereby amended to read as follows: 40-5504. (a) An individual applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.

(b) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension or revocation of the license, that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.

(c) In order to make a determination of license eligibility, the commissioner shall require a criminal history record check *in accordance with section 2, and amendments thereto,* on each applicant who is not exempt from pre-licensing examination pursuant to K.S.A. 40-5507, and amendments thereto.

Sec. 31. K.S.A. 2023 Supp. 40-5505 is hereby amended to read as follows: 40-5505. (a) Before issuing a public adjuster license to an applicant under 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. 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. 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. 40-5511, and amendments thereto;

(5) has paid an application fee not to exceed $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~~ *an applicant* to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto,* or to submit to a background check, or both.

(2) Whenever the commissioner requires fingerprinting, a background check, or both, any associated costs shall be paid by the applicant.

~~(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.~~

(e) Not later than December 1 of each year, the commissioner shall set and publish in the Kansas register the application fees required pursuant to subsection (a) for the next calendar year.

Sec. 32. K.S.A. 2023 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic candy" means:

(1) For purposes of manufacturing, any candy or other confectionery product with an alcohol content greater than 0.5% alcohol by volume; and

(2) for purposes of sale at retail, any candy or other confectionery product with an alcohol content greater than 1% alcohol by volume.

(c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic candy and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, but shall not include any cereal malt beverage.

(d) *"Applicant" means a person who has submitted an application for licensure under this act.*

(e) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

~~(e)~~*(f)* "Caterer" means the same as defined by K.S.A. 41-2601, and amendments thereto.

~~(f)~~*(g)* "Cereal malt beverage" means the same as defined by K.S.A. 41-2701, and amendments thereto.

~~(g)~~*(h)* "Club" means the same as defined by K.S.A. 41-2601, and amendments thereto.

~~(h)~~*(i)* "Director" means the director of alcoholic beverage control of the department of revenue.

~~(i)~~*(j)* "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

~~(j)~~*(k)* "Domestic beer" means beer which contains not more than 15% alcohol by weight and which is manufactured in this state.

~~(k)~~*(l)* "Domestic fortified wine" means wine which contains more than 16%, but not more than 20% alcohol by volume and which is manufactured in this state.

~~(l)~~*(m)* "Domestic table wine" means wine which contains not more than 16% alcohol by volume and which is manufactured without rectification or fortification in this state.

~~(m)~~*(n)* "Drinking establishment" means the same as defined by K.S.A. 41-2601, and amendments thereto.

~~(n)~~*(o)* "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

~~(o)~~*(p)* "Fulfillment house" means any location or facility for any in-state or out-of-state entity that handles logistics, including warehousing, packaging, order fulfillment or shipping services on behalf of the holder of a special order shipping license issued pursuant to K.S.A. 41-350, and amendments thereto.

~~(p)~~*(q)* "Hard cider" means any alcoholic beverage that:

(1) Contains less than 8.5% alcohol by volume;

(2) has a carbonation level that does not exceed 6.4 grams per liter; and

(3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

~~(q)~~*(r)* "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

~~(r)~~*(s)* (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) "Manufacturer" does not include a microbrewery, microdistillery or a farm winery.

~~(s)~~*(t)* "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider.

~~(t)~~*(u)* "Microdistillery" means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

~~(u)~~*(v)* "Minor" means any person under 21 years of age.

~~(v)~~*(w)* "Nonbeverage user" means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

~~(w)~~*(x)* "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

~~(x)~~*(y)* "Person" means any natural person, corporation, partnership, trust or association.

~~(y)~~*(z)* "Powdered alcohol" means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

~~(z)~~*(aa)* "Primary American source of supply" means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

~~(aa)~~*(bb)* (1) "Retailer" means a person who is licensed under the Kansas liquor control act and sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverages.

(2) "Retailer" does not include a microbrewery, microdistillery or a farm winery.

~~(bb)~~*(cc)* "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

~~(cc)~~*(dd)* "Salesperson" means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and

sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

~~(dd)~~*(ee)* "Sample" means a serving of alcoholic liquor that contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A "sample" of a mixed alcoholic beverage shall contain not more than ½ ounce of distilled spirits.

~~(ee)~~*(ff)* "Secretary" means the secretary of revenue.

~~(ff)~~*(gg)* (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

~~(gg)~~*(hh)* "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

~~(hh)~~*(ii)* "Sleeve" means a package of two or more 50-milliliter or 3.2-fluid-ounce containers of spirits.

~~(ii)~~*(jj)* "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

~~(jj)~~*(kk)* "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

~~(kk)~~*(ll)* "Temporary permit" means the same as defined by K.S.A. 41-2601, and amendments thereto.

~~(ll)~~*(mm)* "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. "Wine" includes hard cider and any other product that is commonly known as a subset of wine.

Sec. 33. K.S.A. 41-311b is hereby amended to read as follows: 41-311b. (a) If an applicant for licensure is not a resident of the state of Kansas on the date of submission of such application, the director may require the individual applicant, or if the applicant is a corporation, partnership or trust, each individual officer, director, stockholder, copartner or trustee to:

(1) Submit to a national criminal history record check and provide the director with a legible set of fingerprints *in accordance with section 2, and amendments thereto*;

(2) disclose to the director any substantial financial interest the applicant owns in any entity that receives proceeds from the sale of alcoholic beverages; and

(3) submit a release allowing the director to have access to and review of the applicant's financial records to verify ownership and to ensure applicant is not an agent of another person. This release shall remain in effect after the license has been issued until the license is canceled or revoked.

(b) ~~The director shall submit the fingerprints provided under subsection (a) to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the director to verify the identity of such applicant or such individuals specified in subsection (a) and whether such applicant or such individuals have been convicted of any crimes that would disqualify the applicant or such individuals from holding a license under the liquor control act. The director is authorized to use the information obtained from the national criminal history record check to determine such applicant's or individual's eligibility to hold a license under the liquor control act.~~

~~(c)~~ All costs incurred pursuant to this section to ensure that the applicant is qualified for licensure shall be paid by the applicant.

Sec. 34. K.S.A. 46-1103 is hereby amended to read as follows: 46-1103. (a) There is hereby established the division of post audit within the legislative branch of the government. The division of post audit shall be under the direct supervision of the post auditor in accordance with policies adopted by the legislative post audit committee.

(b) (1) Employees in the division of post audit shall be in the unclassified service, shall receive such compensation as is provided under this act and shall be covered by the state group health plan and Kansas public employees retirement system to the same extent as other state employees.

(2) Employees of the division of post audit shall receive travel expenses and subsistence expenses and allowances as provided for other state employees.

(3) Employees in the division of post audit shall be employed by and be responsible to the post auditor who shall fix the compensation of each such employee subject to approval of the legislative post audit committee and within budget and appropriations therefor.

(c) (1) The post auditor may require employees ~~of the division of post audit and other persons who contract to work with or work under the direction of the post auditor~~ to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the employee and to determine whether the employee has a record of criminal history in this state or another jurisdiction. The post auditor shall submit the fingerprints to the Kansas bureau of investigation and the federal bu-~~

~~reau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the post auditor in the taking and processing of fingerprints of employees or other such persons. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The post auditor may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the employee or other such person and in the official determination of the qualifications and fitness of the employee or other such person to work with the division of post audit in any capacity.~~

(2) If any person offered a position of employment in the division of post audit, including any person who contracts to work with the division of post audit is subject to a criminal history records check, such person shall be given a written notice that a criminal history records check is required. The post auditor may require such person to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or another jurisdiction. The post auditor shall submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the post auditor in the taking and processing of fingerprints of each such person. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The post auditor may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the eligibility of the person to perform appropriate tasks for the division of post audit. If the criminal history record information is used to disqualify a person from employment or a contract offer, such person shall be informed in writing of that decision.~~

(3) For the purposes of this subsection, "employee" means a person with a position of employment within the division of post audit or a person who contracts to work with or under the direction of the post auditor.

(d) The annual budget request of the division shall be prepared by the post auditor and the post auditor shall present it to the legislative post audit committee. The committee shall make any changes it desires in said budget request and then shall transmit it to the legislative coordinating council. Such council shall make any changes it desires in such budget request and upon approval of the budget request by the council, the post auditor shall submit it to the director of the budget as other budget requests are submitted.

Sec. 35. K.S.A. 46-3301 is hereby amended to read as follows: 46-3301. (a) There is hereby established a joint committee on Kansas security which shall consist of five members of the house of representatives and five members of the senate. Three of the members who are representatives shall be appointed by the speaker of the house of representatives, three members who are senators shall be appointed by the president of the senate, two members who are representatives shall be appointed by the minority leader of the house of representatives and two members who are senators shall be appointed by the minority leader of the senate. The speaker of the house of representatives shall designate a representative member to be chairperson or vice-chairperson of the committee as provided by this section. The president of the senate shall designate a senator member to be chairperson or vice-chairperson of the joint committee as provided by this section.

(b) The Kansas bureau of investigation shall conduct a criminal history record check and background investigation of all committee staff members of the legislative research department and the office of ~~the~~ revisor of statutes *in accordance with section 3, and amendments thereto*.

(c) A quorum of the joint committee on Kansas security shall be six. All actions of the committee may be taken by a majority of those present when there is a quorum. In odd-numbered years the chairperson of the joint committee shall be the designated member of the house of representatives from the convening of the regular session in that year until the convening of the regular session in the next ensuing year. In even-numbered years the chairperson of the joint committee shall be the designated member of the senate from the convening of the regular session of that year until the convening of the regular session of the next ensuing year. The ~~vice-chairperson~~ *vice chairperson* shall exercise all of the powers of the chairperson in the absence of the chairperson.

(d) The joint committee on Kansas security may meet at any time and at any place within the state on call of the chairperson. Members of the joint committee shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(e) Amounts paid under authority of this section shall be paid from appropriations for legislative expense and vouchers therefor shall be prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative coordinating council.

(f) The joint committee on Kansas security may introduce such legislation as deemed necessary in performing such committee's functions.

(g) The joint committee on Kansas security shall have the services of the legislative research department, the office of ~~the~~ revisor of statutes and other central legislative staff service agencies.

(h) The joint committee on Kansas security shall study, monitor, review and make recommendations for the following:

(1) Matters relating to the security of state officers or employees;

(2) security of buildings and property under the ownership or control of the state of Kansas;

(3) matters relating to the security of a public body or agency, public building or facility;

(4) matters relating to the security of the infrastructure of Kansas, including any information system; and

(5) measures for the improvement of security for the state of Kansas.

(i) The joint committee on Kansas security shall review and monitor federal moneys received by the state for the purposes of homeland security and other related security matters.

(j) The joint committee on Kansas security shall report to the legislature on or before December 31 each year any findings and recommendations concerning Kansas security which the joint committee deems appropriate.

Sec. 36. K.S.A. 2023 Supp. 50-6,126 is hereby amended to read as follows: 50-6,126. (a) There shall be a question on all application and renewal forms requiring the applicant to answer under oath whether or not the applicant has been convicted of a felony offense in this state, another state, or any other place, and the nature of that offense upon which a conviction was imposed.

(b) Conviction of an offense shall not disqualify a person from registration as a roofing contractor under this act, provided the applicant has truthfully disclosed the conviction and nature of the offense.

(c) When deemed appropriate, the attorney general may conduct a criminal history records search or background check *in accordance with section 3, and amendments thereto,* on any applicant or registered roofing contractor and may investigate the information submitted on a roofing contractor application or renewal form, provided no adverse action may be taken against the person until the person has been notified and given an opportunity to respond in writing.

Sec. 37. K.S.A. 2023 Supp. 50-1128 is hereby amended to read as follows: 50-1128. This act shall be administered by the commissioner. In addition to other powers granted by this act, the commissioner, within the limitations provided by law, may exercise the following powers:

(a) Adopt, amend and revoke rules and regulations as necessary to carry out the intent and purpose of this act.

(b) Make any investigation and examination of the operations, books and records of a credit services organization, as the commissioner deems necessary to aid in the enforcement of this act.

(1) The commissioner, or the commissioner's designee, shall have free and reasonable access to the offices, places of business and all records of

the licensee that relate to the debt management or credit services organization business. The commissioner may designate persons, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf.

(2) The commissioner may charge reasonable costs of investigation, examination and administration of this act, to be paid by the applicant or licensee, in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. The commissioner may maintain an action in any court to recover such costs.

(c) To order any licensee or person to cease any activity or practice which the commissioner deems to be deceptive, dishonest, or a violation of this act, or of other state or federal law, or unduly harmful to the interests of the public.

(d) (1) Exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the applicant or licensee or administers statutes, rules and regulations or programs related to debt management or credit services organization laws.

(2) Examination reports and correspondence regarding such reports made by the commissioner or the commissioner's designees shall be confidential. The commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's designees.

(e) Disclose to any person or entity that an applicant's or licensee's application or license has been denied, suspended, revoked or refused renewal.

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

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

(h) Delegate the authority to sign any orders, official documents or papers issued under or related to this act to the deputy of consumer and mortgage lending in the office of the state bank commissioner.

(i) Require fingerprinting of any licensee~~, agent acting on behalf of a licensee or other person as deemed appropriate by the commission-~~

~~er, or the commissioner's designee~~ *in accordance with section 2, and amendments thereto*. ~~The commissioner, or commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions.~~ For purposes of this section and in order to reduce the points of contact that the federal bureau of investigation may have to maintain with the individual states, the commissioner may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

(j) Use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing information regarding credit services organization licensing to and from any source so directed by the commissioner.

(k) Establish relationships or contracts with the nationwide mortgage licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees or other persons subject to this act, and to take other such actions as may be reasonably necessary to participate in the nationwide mortgage licensing system and registry.

(l) Charge, establish and collect from licensees such fees as are necessary and in such amounts as the commissioner may determine to be sufficient to meet the expense requirements of the commissioner in administering this act.

(m) Seize and distribute a licensee's trust account funds to protect consumers and the public interest.

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

(o) To enter into any informal agreement with any person for a plan of action to address violations of this act. The adoption of an informal agreement authorized by this subsection shall not be subject to the provisions of the Kansas administrative procedure act or the Kansas judicial review act. Any informal agreement authorized by this subsection shall not be considered an order or other agency action, and shall be considered con-

fidential examination material pursuant to K.S.A. 50-1128(d), and amendments thereto. All such examination material shall be confidential by law and privileged, shall not be subject to the open records act, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.

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

Sec. 38. K.S.A. 2023 Supp. 58-3035 is hereby amended to read as follows: 58-3035. As used in this act, unless the context otherwise requires:

(a) "Act" means the real estate brokers' and salespersons' license act.

(b) "Advance listing fee" means any fee charged for services related to promoting the sale or lease of real estate and paid in advance of the rendering of such services, including any fees charged for listing, advertising or offering for sale or lease any real estate, but excluding any fees paid solely for advertisement or for listing in a publication issued for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the listing.

(c) "Associate broker" means an individual who has a broker's license and who is employed by another broker or is associated with another broker as an independent contractor and participates in any activity described in subsection (f).

(d) "Branch broker" means an individual who has a broker's license and who has been designated to supervise a branch office and the activities of salespersons and associate brokers assigned to the branch office.

(e) "Branch office" means a place of business other than the principal place of business of a broker.

(f) "Broker" means an individual, other than a salesperson, who advertises or represents that such individual engages in the business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:

(1) Sells, exchanges, purchases or leases real estate.

(2) Offers to sell, exchange, purchase or lease real estate.

(3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.

(4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.

(5) Auctions or offers, attempts or agrees to auction real estate or assists an auctioneer by procuring bids at a real estate auction.

(6) Buys, sells, offers to buy or sell or otherwise deals in options on real estate.

(7) Assists or directs in the procuring of prospects calculated to result in the sale, exchange or lease of real estate.

(8) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.

(9) Engages in the business of charging an advance listing fee.

(10) Provides lists of real estate as being available for sale or lease, other than lists provided for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the list.

(g) "Commission" means the Kansas real estate commission.

(h) "Exchange" means a type of sale or purchase of real estate.

(i) "Interest" means: (1) Having any type of ownership in the real estate involved in the transaction; or (2) an officer, member, partner or shareholder of any entity that owns such real estate excluding an ownership interest of less than 5% in a publicly traded entity.

(j) "Lease" means rent or lease for nonresidential use.

(k) "Licensee" means any person licensed under this act as a broker or salesperson.

(l) (1) "Office" means any permanent location where one or more licensees regularly conduct real estate business as described in subsection (f) or a location that is held out as an office.

(2) "Office" does not mean a model home office in a new home subdivision if the real estate transaction files are maintained in the primary office or branch office.

(m) "Primary office" means a supervising broker's principal place of business for each company created or established by the broker.

(n) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests, and rights of way and easements acquired for the purpose of constructing roadways, pipelines, conduits, wires and facilities related to these types of improvement projects for private and public utilities, municipalities, federal and state governments, or any political subdivision. For purpose of this act, any rights of redemption are considered to be an interest in real estate.

(o) "Salesperson" means an individual, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (f).

(p) "Supervising broker" means an individual, other than a branch broker, who has a broker's license and who has been designated as the broker who is responsible for the supervision of the primary office of a

broker and the activities of salespersons and associate brokers who are assigned to such office and all of whom are licensed pursuant to ~~subsection (b) of~~ K.S.A. 58-3042*(b)*, and amendments thereto. "Supervising broker" ~~also means~~ *includes* a broker who operates a sole proprietorship and with whom associate brokers or salespersons are affiliated as employees or independent contractors.

(q) "Applicant" means an individual who has applied or intends to apply for licensure under this act as a broker or salesperson.

Sec. 39. K.S.A. 2023 Supp. 58-3039 is hereby amended to read as follows: 58-3039. (a) Any person desiring to act as a broker or salesperson ~~must~~ *shall* file an application for a license with the commission or, if required by the commission, with the testing service designated by the commission. The application shall be in such form and detail as the commission shall prescribe. The commission may require any portion of the application to be submitted electronically.

(1) Any applicant who qualifies for licensure as a salesperson shall submit the application accompanied by evidence of compliance with K.S.A. 58-3046a(a) and (c), and amendments thereto.

(2) Any applicant who qualifies for licensure as a broker shall submit the application accompanied by evidence of compliance with K.S.A. 58-3046a(b) and (d), and amendments thereto.

(3) All applicants shall submit the application and license fees as prescribed by K.S.A. 58-3063, and amendments thereto.

(b) (1) As part of an application for an original license or in connection with any investigation of any holder of a license, the commission shall require a person to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The commission shall require the applicant 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 in the manner designated by the Kansas bureau of investigation. The commission shall use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license.~~

~~(2) Local and state law enforcement officers and agencies shall assist the commission in taking and processing fingerprints of applicants for and holders of any license and shall release all records of adult convictions to the commission.~~

~~(3)~~ The commission may fix and collect a fee in an amount necessary to reimburse the commission for the cost of fingerprinting and the

criminal history record check. Such fee shall be established by rule and regulation in accordance with K.S.A. 58-3063, and amendments thereto. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the background investigation fee fund.

(c) A license to engage in business as a broker or salesperson shall be granted only to a person who is 18 or more years of age and who has a high school diploma or its equivalent.

(d) *(1)* In addition to the requirements of subsection (c), except as provided in subsection (e), each applicant for an original license as a broker shall have been licensed as a salesperson in this state or as a salesperson or broker in another state, and shall have been actively engaged in any of the activities described in K.S.A. 58-3035(f), and amendments thereto, for a period of at least two years during the three years immediately preceding the date of the application for a license.

(2) The commission may adopt rules and regulations to implement the provisions of this subsection.

(e) The commission may accept proof of experience in the real estate or a related business or a combination of such experience and education which the commission believes qualifies the applicant to act as a broker as being equivalent to all or part of the experience required by subsection (d).

(f) Each applicant for an original license shall be required to pass an examination covering the subject matter which brokers or salespersons generally confront while conducting activities that require a real estate license. The examination shall consist of a general portion that tests the applicant's knowledge of real estate matters that have general application. The state portion of the examination shall test the applicant's knowledge of real estate subject matter applicable to a specific jurisdiction.

(1) Except as provided in K.S.A. 58-3040, and amendments thereto, each applicant for an original license shall be required to pass the general or national portion of the examination.

(2) Each applicant for an original license shall be required to pass the Kansas state portion of the examination.

(3) No license shall be issued on the basis of an examination if either or both portions of the examination were administered more than six months prior to the date that the applicant's application is received by the commission. The examination may be given by the commission or testing service designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, and amendments thereto, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(g) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of a broker or salesperson in such manner as to safeguard the public interest.

(h) An application for an original license as a salesperson or associate broker shall be accompanied by the recommendation of the supervising broker or branch broker with whom the salesperson or associate broker is to be associated, or by whom the salesperson or associate broker is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.

Sec. 40. K.S.A. 2023 Supp. 58-4102 is hereby amended to read as follows: 58-4102. As used in this act:

(a) "Appraisal" or "real estate appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate. An appraisal may be classified by subject matter into either a valuation or an analysis. A valuation is an estimate of the value of real estate or real property. An analysis is a study of real estate or real property other than estimating value.

(b) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested party in rendering an unbiased analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate.

(c) "Broker's price opinion" and "comparative market analysis" means an analysis, opinion or conclusion prepared by an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, relating to the price of specified interests in or aspects of identified real estate property that is provided to a potential customer, client or third party in the ordinary course of business.

(d) "Board" means the real estate appraisal board established pursuant to the provisions of this act.

(e) "Federal law" means title XI of the financial institutions reform, recovery and enforcement act of 1989 (12 U.S.C. § 3331 et seq.) and any other federal law, and any regulations adopted pursuant thereto.

(f) "Federally related transaction" means any real estate-related financial transaction which: (1) A federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for or regulates; and (2) requires the services of an appraiser.

(g) *"Licensee" means an individual who has submitted an application for an original license or certificate, licensure by reciprocity or endorsement or renewal of a license or certification or a person who is currently licensed or certified under this act.*

(h) "Real estate" means an identified parcel or tract of land, including improvements, if any.

~~(h)~~*(i)* "Real estate appraisal organization" means any nationally recognized organization of professional appraisers.

~~(i)~~*(j)* "Real estate-related financial transaction" means any transaction involving: (1) The sale, lease, purchase, investment in or exchange of real property, including interests in property or the financing thereof; (2) the refinancing of real property or interests in real property; (3) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities; or (4) a federally related transaction.

~~(j)~~*(k)* "Real property" means one or more defined interests, benefits and rights inherent in the ownership of real estate.

~~(k)~~*(l)* "Specialized services" means those appraisal services which do not fall within the definition of appraisal assignment. Specified services may include valuation work and analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested party in rendering an unbiased analysis, opinion or conclusion, the work is classified as an appraisal assignment and not specialized services.

~~(l)~~*(m)* A "state certified appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid certificate issued to such person under the provisions of this act.

~~(m)~~*(n)* A "state licensed appraiser" means a person who develops and communicates real estate appraisals and holds a current, valid license issued to such person under the provisions of this act.

~~(n)~~*(o)* "Written appraisal" means a written statement used in connection with a real estate-related financial transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

~~(o)~~*(p)* "Appraiser" means a person who develops and communicates real estate appraisals for real estate-related financial transactions and holds a current valid certification or license issued to such person under the provisions of K.S.A. 58-4101 et seq., and amendments thereto.

Sec. 41. K.S.A. 2023 Supp. 58-4127 is hereby amended to read as follows: 58-4127. (a) The real estate appraisal board may require ~~the following individuals~~ *a licensee* to be fingerprinted and submit to a state and national criminal history record check~~:~~

~~(1) An individual applying for: (A) An original license or certification; (B) licensure by reciprocity or endorsement; or (C) renewal of a license or certification; or~~

~~(2) a currently licensed or certified individual, if necessary, to investigate a complaint or if required by the appraisal subcommittee~~ *in accordance with section 2, and amendments thereto.*

(b) ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The board may use the information obtained from the fingerprinting and the individual's criminal history for purposes of verifying the identification of any individual and in the official determination of the qualifications and fitness of the individual to be issued, to maintain or to renew a license or certification.~~

~~(c) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of individuals as required by this section and shall release all records of adult convictions to the board. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section.~~

~~(d)~~ The board may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. The board is hereby authorized to adopt rules and regulations pertaining to such fee.

~~(e)~~*(c)* This section shall be *a* part of and supplemental to the state certified and licensed real property appraisers act.

Sec. 42. K.S.A. 2023 Supp. 58-4703 is hereby amended to read as follows: 58-4703. As used in this act:

(a) *"Applicant" means a person who has submitted an original application for or an application for renewal of a credential under this act.*

(b) "Appraisal" has the meaning specified in K.S.A. 58-4102, and amendments thereto.

~~(b)~~*(c)* "Appraisal management company" or "AMC" means an individual, firm, partnership, association, corporation, limited liability company or any other business entity acting as an external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets:

(1) That performs appraisal management services, regardless of the use of any of the following terms: Appraisal management company, mortgage technology provider, mortgage services provider, lender processing services provider, loan processor, real estate closing services provider, vendor management company or any other like term; and

(2) such entity oversees an appraiser panel of:

(A) More than 15 appraisers who are certified or licensed in Kansas; or

(B) a total of more than 25 appraisers who are certified or licensed in Kansas and in any other jurisdiction.

~~(e)~~*(d)* "Appraisal management services" means to perform or attempt to perform, directly or indirectly, any one or more of the following functions on behalf of a lender, financial institution, client, or any other person:

(1) Administer an appraiser panel;

(2) recruit, qualify, verify licensing or certification and negotiate fees and service level expectations with any person who is part of an appraiser panel;

(3) receive an order for an appraisal from one entity and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(4) track and determine the status of orders for appraisals;

(5) conduct quality control of a completed appraisal prior to the delivery of such appraisal to the person that ordered the appraisal; or

(6) submit a completed appraisal performed by an appraiser to one or more clients.

~~(d)~~*(e)* "Appraiser" means an individual who holds a credential issued by the Kansas real estate appraisal board pursuant to the state certified and licensed real property appraiser act entitling that individual to perform an appraisal of real property in the state of Kansas consistent with the scope of practice for such credential.

~~(e)~~*(f)* "Appraiser panel" means a network of one or more licensed or certified appraisers who are independent contractors to the AMC and have:

(1) Responded to an invitation, request, or solicitation from an AMC, in any form, to perform appraisals for persons that have ordered appraisals through the AMC, or to perform appraisals for the AMC directly, on a periodic basis, as requested and assigned by the AMC; and

(2) been selected and approved by an AMC to perform appraisals for any client of the AMC that has ordered an appraisal through the AMC, or to perform appraisals for the AMC directly, on a periodic basis, as assigned by the AMC.

~~(f)~~*(g)* "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions of value, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term "appraisal review" does not include a general examination for:

(1) Grammatical, typographical or other similar errors; or

(2) Completeness including regulatory requirements, client requirements, or both such requirements as specified in the engagement letter that does not communicate an opinion.

~~(g)~~*(h)* "Board" means the Kansas real estate appraisal board.

~~(h)~~*(i)* "Credential" means a certificate, license or temporary permit issued by the board pursuant to the provisions of the state certified and licensed real estate appraisals act authorizing an individual to act as a temporary permitted appraiser, provisional appraiser, state licensed appraiser, certified residential appraiser or certified general appraiser in the state of Kansas.

~~(i)~~*(j)* "Controlling person" means:

(1) An owner, officer, manager, or director of a corporation, partnership, firm, association, limited liability company, or other business entity seeking to offer appraisal management services in this state;

(2) an individual employed, appointed, or authorized by an AMC that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(3) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an AMC.

~~(j)~~*(k)* "Person" means an individual, firm, partnership, association, corporation, or any other entity.

~~(k)~~*(l)* "Uniform standards of professional appraisal practice" or "USPAP" means the edition of the uniform standards of professional appraisal practice as specified in K.S.A. 58-4121, and amendments thereto.

Sec. 43. K.S.A. 2023 Supp. 58-4709 is hereby amended to read as follows: 58-4709. (a) No single interest in an AMC applying for, holding or renewing a registration under this act shall be owned by:

(1) An individual who has held a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser and such credential:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) not subsequently granted or reinstated; or

(C) is otherwise not in good standing; or

(2) any person who owns an interest in an entity and such person has held a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser that:

(A) Was refused, denied, revoked, suspended, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such person; and

(B) (i) not subsequently granted or reinstated; or

(ii) is otherwise not in good standing.

(b) (1) Each individual that owns an interest in an AMC who applies for, holds, or renews a registration under this act shall be of good moral character as determined by the board by rules and regulations.

(2) As a part of an application for an original registration, and for a renewal registration if required by the board, the board shall require ~~the individual~~ *an applicant* to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The individual's fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. The board shall require the individual 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 board shall use the information obtained from the fingerprinting and the criminal history for purposes of verifying the identification of the individual and in the official determination of the qualifications and fitness of the applicant to be issued, maintain, or renew a registration.~~

~~(3) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of individuals for any registration and shall release all records of adult convictions to the board.~~

~~(4)~~ The board may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Such fee shall be established by rules and regulations.

(c) Each AMC applying for registration or for renewal of a registration under this act shall certify to the board on a form prescribed by the board that:

(1) Such AMC has reviewed each person or entity that owns an interest in the AMC; and

(2) no person or entity that owns an interest in the AMC has held a credential issued by any appraiser-credentialing jurisdiction to act as an appraiser and such credential:

(A) Was refused, denied, suspended, revoked, or surrendered or nonrenewed in lieu of a pending disciplinary proceeding in any jurisdiction against such individual; and

(B) (i) was not subsequently granted or reinstated; or

(ii) is otherwise not in good standing.

Sec. 44. K.S.A. 65-503 is hereby amended to read as follows: 65-503. As used in this act:

(a) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.

(b) "Child care resource and referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.

(c) "Child care facility" means:

(1) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children in the custody of the secretary for children and families who are placed with a prospective adoptive family pursuant to the provisions of an adoptive placement agreement or who are related to the person by blood, marriage or legal adoption;

(2) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;

(3) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or

(4) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

(d) "Day care facility" means a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the secretary to require regulation under the provisions of K.S.A. 65-501 et seq., and amendments thereto.

(e) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.

(f) "Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.

(g) "Maternity center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

(h) "Employee" means a person working, regularly volunteering or residing in a child care facility.

Sec. 45. K.S.A. 2023 Supp. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility if ~~there resides, works or regularly volunteers any person~~ *an employee* who, in this state or in other states or the federal government:

(1) (A) Has been convicted of a crime that is classified as a person felony under the Kansas criminal code;

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

(C) has been convicted of any act that is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or been convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto, to commit any such act or been convicted of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto, to commit such act, or similar statutes of any other state or the federal government;

(D) has been convicted of any act that is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government; or

(E) has been convicted of any act that is described in K.S.A. 21-3718 or 21-3719, prior to their repeal, or K.S.A. 21-5812, and amendments thereto, or similar statutes of any other state or the federal government;

(2) except as provided in subsection (b), has been adjudicated a juvenile offender because of having committed an act that if done by an adult would constitute the commission of a felony and that is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or similar statutes of any other state or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government;

(3) has been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any other state or as a sex offender on the national sex offender registry;

(4) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 38-2226, and amendments thereto, or any similar child abuse and neglect registries maintained by any other state or the federal government and:

(A) The person has failed to successfully complete a corrective action plan that had been deemed appropriate and approved by the Kansas de-

partment for children and families or requirements of similar entities in any other state or the federal government; or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families or similar entities in any other state or the federal government;

(5) has had a child removed from home based on a court order pursuant to K.S.A. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;

(6) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

(7) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or

(8) has an infectious or contagious disease.

(b) If the secretary determines there is no safety concern, the secretary may license a family foster home, as defined in K.S.A. 38-134, and amendments thereto, when a person who has been adjudicated as a juvenile offender for an offense described in subsection (a)(2):

(1) Was a child in the custody of the secretary and placed with such family foster home by the secretary;

(2) is 18 years of age or older;

(3) (A) maintains residence at such family foster home; or

(B) has been legally adopted by any person who resides at such family foster home; and

(4) six months have passed since the date of adjudication.

(c) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(d) Any person who resides in a child care facility and who has been found to be in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(e) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of inves-

tigation and any report of investigations as authorized by K.S.A. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning ~~persons working, regularly volunteering or residing~~ *employees* in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

(f) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on ~~persons residing, working or regularly volunteering~~ *employees* in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history *in accordance with section 2, and amendments thereto*. ~~The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.~~

(g) ~~Local and state law enforcement officers and agencies shall assist the secretary in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the department.~~

~~(h)~~ (1) The secretary shall adopt rules and regulations on or before January 1, 2019, to fix a fee for fingerprinting persons residing, working or regularly volunteering in a child care facility, as may be required by the department to reimburse the department for the cost of the fingerprinting.

(2) The secretary shall remit all moneys received from the fees established 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 child care criminal background and fingerprinting fund.

(i) The child care criminal background and fingerprinting fund is hereby created in the state treasury to be administered by the secretary of health and environment. All moneys credited to the child care criminal background and fingerprinting fund shall be used to pay local and state law enforcement officers and agencies for the processing of fingerprints and criminal history background checks for the department. All expen-

ditures from the child care criminal background and fingerprinting fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person designated by the secretary.

(j) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsections (a)(1) through (8) with regard to the person who is the subject of the review.

(k) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(l) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:

(1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and

(2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

(m) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history on record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential,

except that the staff person may disclose such information on a need-to-know basis to:

(A) The person who is the subject of the request for information;

(B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;

(C) the department of health and environment;

(D) the Kansas department for children and families;

(E) the department of corrections; and

(F) the courts.

(6) A violation of the provisions of paragraph (5) shall be an unclassified misdemeanor punishable by a fine of $100 for each violation.

(n) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who was maintaining a day care facility on the day immediately prior to July 1, 2010, or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

Sec. 46. K.S.A. 2023 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act, or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:

(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) has been convicted or found guilty or has entered into an agreed disposition of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(4) to have committed an act of professional incompetency as defined in subsection (e);

(5) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;

(6) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(7) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(8) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

(9) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (9); or

(10) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 2023 Supp. 60-4404, and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(b) *Proceedings.* Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation,

the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) *Witnesses.* No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-5903, and amendments thereto.

(d) *Costs.* If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) *Professional incompetency defined.* As used in this section, "professional incompetency" means:

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

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

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

(f) *Criminal justice information.* The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board *in accordance with section 3, and amendments thereto*.

Sec. 47. K.S.A. 65-1501a is hereby amended to read as follows: 65-1501a. For the purposes of this act the following terms shall have the meanings respectively ascribed to them unless the context requires otherwise:

(a) "Board" means the board of examiners in optometry established under K.S.A. 74-1501, and amendments thereto.

(b) "License" means a license to practice optometry granted under the optometry law.

(c) "Licensee" means a person licensed under the optometry law to practice optometry.

(d) "Adapt" means the determination, selection, fitting or use of lenses, prisms, orthoptic exercises or visual training therapy for the aid of any insufficiencies or abnormal conditions of the eyes after or by examination or testing.

(e) "Lenses" means any type of ophthalmic lenses, which are lenses prescribed or used for the aid of any insufficiencies or abnormal conditions of the eyes.

(f) "Prescription" means a verbal, written or electronic order transmitted directly or by electronic means from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the specifications and directions for lenses, prisms, orthoptic exercises, low vision rehabilitation services or visual training therapy to be used for the aid of any insufficiencies or abnormal conditions of the eyes, including instructions necessary for the fabrication or use thereof and the date of issue.

(g) "Prescription for topical pharmaceutical drugs or oral drugs" means a verbal, written or electronic order transmitted directly or by electronic means from a licensee giving or containing the name and address of the prescriber, the license registration number of the licensee, the name and address of the patient, the name and quantity of the drug prescribed, directions for use, the number of refills permitted, the date of issue and expiration date.

(h) "Topical pharmaceutical drugs" means drugs administered topically and not by other means.

(i) "Dispense" means to deliver prescription-only medication or ophthalmic lenses to the ultimate user pursuant to the lawful prescription of a licensee and dispensing of prescription-only medication by a licensee shall be limited to a twenty-four hour supply or minimal quantity necessary until a prescription can be filled by a licensed pharmacist, except that the twenty-four hour supply or minimal quantity shall not apply to lenses described in ~~subsection (a)(2) of~~ K.S.A. 65-1501*(a)(2)*, and amendments thereto.

(j) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(k) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services or ophthalmic goods.

(l) "~~Health care~~ *Healthcare* provider" shall have the meaning ascribed to that term in ~~subsection (f) of~~ K.S.A. 40-3401*(f)*, and amendments thereto.

(m) "Medical facility" shall have the meaning ascribed to that term in ~~subsection (c) of~~ K.S.A. 65-411*(c)*, and amendments thereto.

(n) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

(o) "Ophthalmologist" means a person licensed to practice medicine and surgery by the state board of healing arts who specializes in the diagnosis and medical and surgical treatment of diseases and defects of the human eye and related structures.

(p) "Low vision rehabilitation services" means the evaluation, diagnosis, management and care of the low vision patient including low vision rehabilitation therapy, education and interdisciplinary consultation under the direction and supervision of an ophthalmologist or optometrist.

(q) "Oral drugs" means oral antibacterial drugs, oral antiviral drugs, oral antihistamines, oral analgesic drugs, oral steroids, oral antiglaucoma drugs and other oral drugs with clinically accepted ocular uses.

(r) "Applicant" means a person who has submitted an application for a license to practice optometry.

Sec. 48. K.S.A. 65-1505 is hereby amended to read as follows: 65-1505. (a) Persons entitled to practice optometry in Kansas shall be those persons licensed in accordance with the provisions of the optometry law. A person shall be qualified to be licensed and to receive a license as an optometrist: (1) Who is of good moral character; and in determining the moral character of any such person, the board may take into consideration any felony conviction of such person, but such conviction shall not automatically operate as a bar to licensure; (2) who has graduated from a school or college of optometry approved by the board; and (3) who successfully meets and completes the requirements set by the board and passes an examination given by the board.

(b) All applicants for licensure, in addition to successfully completing all other requirements for licensure, shall submit evidence satisfactory to the board of professional liability insurance in an amount acceptable to the board.

(c) Any person applying for examination by the board shall fill out and swear to an application furnished by the board, accompanied by a fee fixed by the board by rules and regulations in an amount of not to exceed $450, and file the same with the secretary of the board at least 30 days

prior to the holding of the examination. At such examinations the board shall examine each applicant in subjects taught in schools or colleges of optometry approved by the board, as may be required by the board. If such person complies with the other qualifications for licensing and passes such examination, such person shall receive from the board, upon the payment of a fee fixed by the board by rules and regulations in an amount of not to exceed $150, a license entitling such person to practice optometry. In the event of the failure on the part of the applicant to pass the first examination, such person may, with the consent of the board, within 18 months, by filing an application accompanied by a fee fixed by the board by rules and regulations in an amount of not to exceed $150, take a second examination; for the third and each subsequent examination a fee fixed by the board by rules and regulations in an amount of not to exceed $150. Any examination fee and license fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(d) Any applicant for reciprocal licensure may in the board's discretion be licensed and issued a license without examination if the applicant has been in the active practice of optometry in another state for at least the three-year period immediately preceding the application for reciprocal licensure and the applicant:

(1) Presents a certified copy of a certificate of registration or license which has been issued to the applicant by another state where the requirements for licensure are deemed by the board to be equivalent to the requirements for licensure under this act, if such state accords a like privilege to holders of a license issued by the board;

(2) submits a sworn statement of the licensing authority of such other state that the applicant's license has never been limited, suspended or revoked and that the applicant has never been censured or had other disciplinary action taken;

(3) successfully passes an examination of Kansas law administered by the board and such clinical practice examination as the board deems necessary; and

(4) pays the reciprocal license fixed by the board by rules and regulations in an amount of not to exceed $450. The reciprocal license fee fixed by the board under this subsection which is in effect on the day preceding the effective date of this act shall continue in effect until the board adopts rules and regulations under this subsection fixing a different fee therefor.

(e) The board shall adopt rules and regulations establishing the criteria which a school or college of optometry shall satisfy in meeting the requirement of approval by the board established under subsection (a). The board may send a questionnaire developed by the board to any school

or college of optometry for which the board does not have sufficient information to determine whether the school or college meets the requirements for approval and rules and regulations adopted under this act. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school or college to be considered for approval. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about schools or colleges. In entering such contracts the authority to approve schools or colleges shall remain solely with the board.

(f) (1) The board may require an applicant for licensure or a licensee in connection with an investigation of the licensee to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the licensee or applicant for licensure and to determine whether the licensee or applicant for licensure has a record of criminal arrests and convictions in this state or other jurisdictions. The board is authorized to submit the fingerprints to the Kansas bureau of investigation, the federal bureau of investigation or any other law enforcement or criminal justice agency for a state and national criminal history record check. The board may use the information obtained through the criminal history record check for the purposes of verifying the identification of the licensee or applicant for licensure and in the official character and fitness determination of the licensee or applicant for licensure to practice optometry in this state.~~

~~(2) Local and state law enforcement officers and agencies shall assist the board in taking and processing fingerprints of licensees and applicants for licensure and shall release to the board all records of adult convictions, arrests and nonconvictions in this state and all records of adult convictions, arrests and nonconvictions of any other state or country. The board may enter into agreements with the Kansas bureau of investigation, the federal bureau of investigation or any other law enforcement or criminal justice agency as necessary to carry out the duties of the board under this act.~~

~~(3) The fingerprints and all information obtained from the criminal history record check shall be confidential and shall not be disclosed except to members of the board and agents and employees of the board as necessary to verify the identification of any licensee or applicant for licensure and in the official character and fitness determination of the licensee or applicant for licensure to practice optometry in this state. Any other disclosure of such confidential information shall constitute a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act.~~

~~(4)~~(2) (A) The board shall fix a fee for fingerprinting applicants or licensees in an amount necessary to reimburse the board for the cost of the fingerprinting. Fees collected under this subsection shall be deposited in the criminal history and fingerprinting fund.

(B) There is hereby created in the state treasury the criminal history and fingerprinting fund. All moneys credited to the fund shall be used to pay all costs and fees associated with processing of fingerprints and criminal history checks for the board of examiners in optometry. The fund shall be administered by the board. 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 president of the board or a person designated by the president.

Sec. 49. K.S.A. 2023 Supp. 65-1626 is hereby amended to read as follows: 65-1626. As used in the pharmacy act of the state of Kansas:

(a) "Address" means, with respect to prescriptions, the physical address where a patient resides, including street address, city and state.

(b) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner;

(2) the patient or research subject at the direction and in the presence of the practitioner; or

(3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto, or K.S.A. 2023 Supp. 65-16,129, and amendments thereto.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, repackager, wholesale distributor, third-party logistics provider or dispenser but does not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(d) "Automated dispensing system" means a robotic or mechanical system controlled by a computer that:

(1) Performs operations or activities, other than compounding or administration, relative to the storage, packaging, labeling, dispensing or distribution of drugs;

(2) collects, controls and maintains all transaction information; and

(3) operates in accordance with the board's rules and regulations.

(e) "Biological product" means the same as defined in 42 U.S.C. § 262(i), as in effect on January 1, 2017.

(f) "Board" means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(g) "Brand exchange," in the case of a drug prescribed, means the dispensing of a different drug product of the same dosage form and

strength and of the same generic name as the brand name drug product prescribed, and in the case of a biological product prescribed, means the dispensing of an interchangeable biological product.

(h) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(i) "Co-licensed partner" means a person or pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer or an affiliate of the manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a product.

(j) "Common carrier" means any person who undertakes, whether directly or by any other arrangement, to transport property, including drugs, for compensation.

(k) (1) "Compounding" means the combining of components into a compounded preparation under either of the following conditions:

(A) As the result of a practitioner's prescription drug order or initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice to meet the specialized medical need of an individual patient of the practitioner that cannot be filled by an FDA-approved drug; or

(B) for the purpose of, or incidental to, research, teaching or chemical analysis, and not for sale or dispensing.

(2) Compounding includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed prescribing patterns.

(3) Compounding does not include reconstituting any mixed drug according to the FDA-approved labeling for the drug.

(l) "Current good manufacturing practices" or "CGMP" means the requirements for ensuring that drugs and drug products are consistently manufactured, repackaged, produced, stored and dispensed in accordance with 21 C.F.R. §§ 207, 210 and 211.

(m) "DEA" means the United States department of justice, drug enforcement administration.

(n) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

(o) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including a component part or accessory that:

(1) (A) Is recognized in the official national formulary, or the United States pharmacopoeia, or any supplement thereof;

(B) is intended for use in the diagnosis of disease or other conditions;

(C) is used for the cure, mitigation, treatment or prevention of disease in human or other animals; or

(D) is intended to affect the structure or any function of the body of human or other animals; and

(2) (A) does not achieve its primary intended purposes through chemical action within or on the body of human or other animals; and

(B) is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

(p) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacist intern or pharmacy technician, be readily and immediately available at all time activities are performed, provide personal assistance, direction and approval throughout the time the activities are performed and complete the final check before dispensing.

(q) "Dispense" or "dispensing" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner, including, but not limited to, delivering prescription medication to a patient by mail, common carrier, personal delivery or third-party delivery to any location requested by the patient.

(r) "Dispenser" means:

(1) A practitioner or pharmacist who dispenses prescription drugs or devices or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto; or

(2) a retail pharmacy, hospital pharmacy or group of pharmacies under common ownership and control that do not act as a wholesale distributor.

(s) "Distribute" or "distribution" means to deliver, offer to deliver, sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store or receive, other than by administering or dispensing, any product, but does not include dispensing a product pursuant to a prescription executed in accordance with 21 U.S.C. § 353 or the dispensing of a product approved under 21 U.S.C. § 360b.

(t) "Distributor" means a person or entity that distributes a drug or device.

(u) "Diversion" means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

(v) "Drop shipment" means the sale, by a manufacturer, repackager or exclusive distributor, of the manufacturer's prescription drug to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the dispenser, and the dispenser receives delivery of the prescription drug directly from the manufacturer, repackager, third-party logistics provider or exclusive distributor, of such prescription drug.

(w) "Drug" means articles:

(1) Recognized in the official United States pharmacopeia, or other such official compendiums of the United States, or official national formulary, or any supplement to any of them;

(2) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals;

(3) other than food, intended to affect the structure or any function of the body of human or other animals; and

(4) intended for use as a component of any articles specified in paragraph (1), (2) or (3); but does not include devices or their components, parts or accessories, except that the term "drug" does not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(x) "Durable medical equipment" means equipment that:

(1) Provides therapeutic benefits or enables an individual to perform certain tasks that the individual is unable to otherwise undertake due to certain medical conditions or illnesses;

(2) is primarily and customarily used to serve a medical purpose;

(3) generally is not useful to a person in the absence of an illness or injury;

(4) can withstand repeated use;

(5) is appropriate for use in the home, long-term care facility or medical care facility, but may be transported to other locations to allow the individual to complete instrumental activities of daily living that are more complex tasks required for independent living; and

(6) may include devices and medical supplies or other similar equipment determined by the board in rules and regulations adopted by the board.

(y) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(z) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(aa) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions that identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(bb) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's

electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(cc) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(dd) "Exclusive distributor" means the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer's product to a subsequent repackager, wholesale distributor or dispenser.

(ee) "FDA" means the United States department of health and human services, food and drug administration.

(ff) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(gg) "Generic name" means the established chemical name or official name of a drug or drug product.

(hh) "Healthcare entity" means any person that provides diagnostic, medical, surgical or dental treatment or rehabilitative care but does not include any retail pharmacy or wholesale distributor.

(ii) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and that is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile correctional facility or juvenile detention facility, as defined in K.S.A. 38-2302, and amendments thereto;

(C) students of a public or private university or college, a community college or any other institution of higher learning that is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(jj) "Interchangeable biological product" means a biological product that the FDA has identified in the "purple book: lists of licensed bio-

logical products with reference product exclusivity and biosimilarity or interchangeability evaluations" as meeting the standards for "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on January 1, 2017.

(kk) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensed partners.

(ll) "Label" means a display of written, printed or graphic matter upon the immediate container of any drug.

(mm) "Labeling" means the process of preparing and affixing a label to any drug container, exclusive of the labeling by a manufacturer, packer or distributor of a non-prescription drug or commercially packaged legend drug.

(nn) *"Fingerprint candidate" means a person who has made an original application for or reinstatement of any license, registration, permit or certificate under this act or a person who currently holds a license, registration, permit or certificate under this act.*

(oo) "Long-term care facility" means "nursing facility," as defined in K.S.A. 39-923, and amendments thereto.

~~(oo)~~*(pp)* "Medical care facility" means the same as defined in K.S.A. 65-425, and amendments thereto, and also includes psychiatric hospitals and psychiatric residential treatment facilities as defined by K.S.A. 39-2002, and amendments thereto.

~~(pp)~~*(qq)* "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical or biological synthesis or by a combination of extraction and chemical or biological synthesis or the packaging or repackaging of the drug or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

~~(qq)~~*(rr)* "Manufacturer" means:

(1) A person that holds an application approved under section 505 of

the federal food, drug and cosmetic act or a license issued under section 351 of the federal public health service act for such drug or, if such drug is not the subject of an approved application or license, the person who manufactured the drug;

(2) a co-licensed partner of the person described in paragraph (1) that obtains the drug directly from a person described in paragraph (1) or (3); or

(3) an affiliate of a person described in paragraph (1) or (2) that receives the product directly from a person described in paragraph (1) or (2).

~~(rr)~~*(ss)* "Medication order" means a written or oral order by a prescriber or the prescriber's authorized agent for administration of a drug or device to a patient in a Kansas licensed medical care facility or in a Kansas licensed nursing facility or nursing facility for mental health, as such terms are defined by K.S.A. 39-923, and amendments thereto.

~~(ss)~~*(tt)* "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

~~(tt)~~*(uu)* "Nonresident pharmacy" means a pharmacy located outside of Kansas.

~~(uu)~~*(vv)* "Outsourcing facility" means a facility at one geographic location or address that is engaged in the compounding of sterile drugs and has registered with the FDA as an outsourcing facility pursuant to 21 U.S.C. § 353b.

~~(vv)~~*(ww)* "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

~~(ww)~~*(xx)* "Pharmacist" means any natural person licensed under this act to practice pharmacy.

~~(xx)~~*(yy)* "Pharmacist-in-charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

~~(yy)~~*(zz)* "Pharmacist intern" or "intern" means:

(1) A student currently enrolled in and in good standing with an accredited pharmacy program;

(2) a graduate of an accredited pharmacy program serving an internship; or

(3) a graduate of a pharmacy program located outside of the United States that is not accredited and who has successfully passed equivalency examinations approved by the board.

~~(zz)~~*(aaa)* "Pharmacy," "drugstore" or "apothecary" means premises, laboratory, area or other place, including any electronic medium:

(1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed;

(2) that has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import in any language or on any sign containing any of these words as used in the context of health, medical or pharmaceutical care or services; or

(3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited in the context of health, medical or pharmaceutical care or services. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

~~(aaa)~~*(bbb)* "Pharmacy prescription application" means software that is used to process prescription information and is either installed on a pharmacy's computers or servers and is controlled by the pharmacy or is maintained on the servers of an entity that sells electronic pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

~~(bbb)~~*(ccc)* "Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy-related duties, but who does not perform duties restricted to a pharmacist.

~~(ccc)~~*(ddd)* "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

~~(ddd)~~*(eee)* "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises and is

responsible for the actions of pharmacist interns obtaining pharmaceutical experience.

~~(eee)~~*(fff)* "Prescriber" means a practitioner or a mid-level practitioner.

~~(fff)~~*(ggg)* "Prescription" or "prescription order" means the front and back of a lawful written, electronic or facsimile order from a prescriber or an oral order from a prescriber or the prescriber's authorized agent that communicates the prescriber's instructions for a prescription drug or device to be dispensed.

~~(ggg)~~*(hhh)* "Prescription medication" means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

~~(hhh)~~*(iii)* "Prescription-only drug" means any drug whether intended for use by human or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

~~(iii)~~*(jjj)* "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

~~(jjj)~~*(lll)* "Product" means the same as defined by part H of the federal drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. § 360eee.

~~(lll)~~*(mmm)* "Professional incompetency" means:

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

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

(3) a pattern of pharmacy practice or other behavior that demonstrates a manifest incapacity or incompetence to practice pharmacy.

~~(mmm)~~*(nnn)* "Readily retrievable" or "readily available" means that records kept in hard copy or by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records quickly and easily during an inspection or investigation, or within a reasonable time not to exceed 48 hours of a written request from the board or other authorized agent.

~~(nnn)~~*(ooo)* "Repackage" means changing the container, wrapper, quantity or label of a drug to further the distribution of the drug.

~~(ooo)~~*(ppp)* "Repackager" means a person who owns or operates a facility that repackages.

~~(ppp)~~*(qqq)* "Retail dealer" means a person selling at retail nonprescription drugs that are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

~~(qqq)~~*(rrr)* "Reverse distributor" means a person who owns or operates an establishment that disposes of or otherwise processes saleable or nonsaleable products received from an authorized trading partner such that the product may be processed for credit to the purchaser, manufacturer or seller or disposed of for no further distribution.

~~(rrr)~~*(sss)* "Secretary" means the executive secretary of the board.

~~(sss)~~*(ttt)* "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistic services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor or dispenser, but does not take ownership of the product or have responsibility to direct the sale or disposition of the product.

~~(ttt)~~*(uuu)* "Trading partner" means:

(1) A manufacturer, repackager, wholesale distributor or dispenser from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct ownership of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct ownership of a product; or

(2) a third-party logistics provider from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct possession of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct possession of a product.

~~(uuu)~~*(vvv)* "Transaction" means the transfer of product between persons in which a change of ownership occurs.

~~(vvv)~~*(www)* "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services that have no legitimate pharmaceutical purpose.

~~(www)~~*(xxx)* "Vaccination protocol" means a written protocol, agreed to and signed by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, that establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

~~(xxx)~~*(yyy)* "Valid prescription order" means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

~~(yyy)~~*(zzz)* "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

~~(zzz)~~*(aaaa)* "Virtual manufacturer" means an entity that engages in the manufacture of a drug or device for which it:

(1) Owns the new drug application or abbreviated new drug application number, if a prescription drug;

(2) owns the unique device identification number, as available, for a prescription device;

(3) contracts with a contract manufacturing organization for the physical manufacture of the drug or device;

(4) is not involved in the physical manufacture of the drug or device; and

(5) does not store or take physical possession of the drug or device.

~~(aaaa)~~*(bbbb)* "Virtual wholesale distributor" means a wholesale distributor that sells, brokers or transfers a drug or device but never physically possesses the product.

~~(bbbb)~~*(cccc)* "Wholesale distributor" means any person engaged in wholesale distribution or reverse distribution of drugs or devices, other than a manufacturer, co-licensed partner or third-party logistics provider.

~~(cccc)~~*(dddd)* "Wholesale distribution" means the distribution or receipt of drugs or devices to or by persons other than consumers or patients, in which a change of ownership occurs. "Wholesale distribution" does not include:

(1) The dispensing of a drug or device pursuant to a prescription;

(2) the distribution of a drug or device or an offer to distribute a drug or device for emergency medical reasons, including a public health emergency declaration pursuant to section 319 of the public health service act, except that, for purposes of this paragraph, a drug or device shortage not caused by a public health emergency shall not constitute an emergency medical reason;

(3) intracompany distribution;

(4) the distribution of a drug or device, or an offer to distribute a drug or device, among hospitals or other healthcare entities under common control;

(5) the distribution of a drug or device, or the offer to distribute a drug or device, by a charitable organization described in section 501(c)(3) of the internal revenue code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the distribution of an intravenous drug used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions; or

(7) the sale or transfer from a retail pharmacy of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a reverse distributor registered in accordance with the board's rules and regulations.

Sec. 50. K.S.A. 65-1696 is hereby amended to read as follows: 65-1696. (a) ~~As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate,~~ The state board of pharmacy may require a ~~person~~ *fingerprint candidate* to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of pharmacy 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 board of pharmacy may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.~~

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

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

~~(d)~~*(c)* This section shall be *a* part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 51. K.S.A. 65-2401 is hereby amended to read as follows: 65-2401. As used in this act: (a) "Vital statistics" includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to birth, adoption, legitimation, death, stillbirth, marriage, divorce, annulment of marriage, induced termination of pregnancy, and data incidental thereto.

(b) "Live birth" means the complete expulsion or extraction from its mother of a human child, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(c) "Gestational age" means the age of the human child as measured in weeks as determined by either the last date of the mother's menstrual period, a sonogram conducted prior to the 20th week of pregnancy or the confirmed known date of conception.

(d) "Stillbirth" means any complete expulsion or extraction from its mother of a human child the gestational age of which is not less than 20 completed weeks, resulting in other than a live birth, as defined in this section, and which is not an induced termination of pregnancy.

(e) "Induced termination of pregnancy" means abortion, as defined in K.S.A. 65-6701, and amendments thereto.

(f) "Dead body" means a lifeless human body or such parts of a human body or the bones thereof from the state of which it reasonably may be concluded that death recently occurred.

(g) "Person in charge of interment" means any person who places or causes to be placed a stillborn child or dead body or the ashes, after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes thereof.

(h) "Secretary" means the secretary of health and environment.

(i) "Employee" means a person who has applied for employment or is currently employed in the office of vital statistics.

Sec. 52. K.S.A. 65-2402 is hereby amended to read as follows: 65-2402. (a) The secretary shall:

(1) Establish within the division of public health suitable offices properly equipped for the preservation of official records;

(2) maintain a complete cross-index on all records filed under the provisions of this act;

(3) install a statewide system of vital statistics;

(4) make and may amend, after notice and hearing, necessary regulations, give instructions and prescribe forms for collection, transcribing, compiling and preserving vital statistics; and

(5) enforce this act and the regulations made pursuant thereto.

(b) Any ~~person offered a position of employment~~ *employee* in the office of vital statistics~~,~~ *who is* subject to a criminal history records check~~,~~ shall be given a written notice that a criminal history records check is required. The secretary shall require such applicant to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~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 secretary 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 secretary in taking and processing of fingerprints of applicants. The secretary may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of the eligibility of the applicant to perform tasks within the office of vital statistics.~~ If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

Sec. 53. K.S.A. 65-2802 is hereby amended to read as follows: 65-2802. For the purpose of this act the following definitions shall apply:

(a) The healing arts include any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, alteration or enhancement of a condition or appearance and includes specifically, but not by way of limitation, the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic.

(b) "Board" ~~shall mean~~ *means* the state board of healing arts.

(c) "License," unless otherwise specified, ~~shall mean~~ *means* a license to practice the healing arts granted under this act.

(d) "Licensed" or "licensee," unless otherwise specified, ~~shall mean~~ *means* a person licensed under this act to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(e) "Healing arts school" ~~shall mean~~ *means* an academic institution which grants a doctor of chiropractic degree, doctor of medicine degree or doctor of osteopathy degree.

(f) "Applicant" means a person who has submitted an application for any license, registration, permit or certificate to the board of healing arts.

(g) "Licensee" means a person who holds a license, registration, permit or certificate issued by the board of healing arts.

~~(f)~~*(h)* Wherever the masculine gender is used, it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of this act.

Sec. 54. K.S.A. 65-2839a is hereby amended to read as follows: 65-2839a. (a) In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, office of a practitioner of any profession regulated by the board, laboratory, pharmacy, medical care facility or other public or private agency if such document, report, record or evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person to safely practice any profession regulated by the board.

(b) For the purpose of all investigations and proceedings conducted by the board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee, registrant, permit holder or certificate holder to safely practice. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence. The board shall have the authority to compel the production of evidence upon noncompliance with an investigative subpoena, if in the opinion of the board or the board's designee, the evidence demanded relates to a practice which may be grounds for

disciplinary action, is relevant to the charge which is the subject matter of the investigation and describes with sufficient particularity the physical evidence required to be produced.

(2) Any person appearing before the board shall have the right to be represented by counsel.

(3) The district court, upon application by the board or after exhaustion of available administrative remedies by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(c) The board may receive from the Kansas bureau of investigation or other criminal justice agencies such criminal history record information, including arrest and nonconviction data, criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining initial and continuing qualifications of licensees, permit holders, registrants and certificate holders of, and applicants for, licensure and registration by the board *in accordance with section 3, and amendments thereto*. ~~Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license, permit, registration or certificate issued under this act. Unless otherwise specified, nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to the practice act of any profession regulated by the board.~~

(d) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this section shall be confidential and shall not be disclosed.

(e) Nothing in this section or any other provision of law making communications between a licensee, registrant, permit holder or certificate holder and the patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this section. The board and

its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

Sec. 55. K.S.A. 65-28,129 is hereby amended to read as follows: 65-28,129. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the state board of healing arts may require a person to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of healing arts 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 board of healing arts may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.~~

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

~~(c)~~ The state board of healing arts may fix and collect a fee as may be required by the board in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the healing arts fee fund.

~~(d)~~*(c)* This section shall be *a* part of and supplemental to the Kansas healing arts act.

Sec. 56. K.S.A. 65-2901 is hereby amended to read as follows: 65-2901. As used in the physical therapy practice act:

(a) "Physical therapy" means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional train-

ing in community or work integration or reintegration; manual therapy; dry needling; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist who is licensed pursuant to the physical therapy practice act. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

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

(c) "Physical therapist assistant" means a person who is certified pursuant to the physical therapy practice act and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under

K.S.A. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

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

(e) "Council" means the physical therapy advisory council.

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

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

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

(i) "Applicant" means a person who has submitted an application for a license to practice physical therapy or a certificate as a physical therapy assistant.

(j) "Licensee" means a person who holds a license to practice physical therapy or a certificate as a physical therapy assistant.

Sec. 57. K.S.A. 2023 Supp. 65-2924 is hereby amended to read as follows: 65-2924. (a) As part of an original application for a license as a physical therapist or a certificate as a physical therapy assistant or as part of an original application for reinstatement of a license or certificate or in connection with any investigation of any holder of a license or certificate, the state board of healing arts may require a person to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The state board of healing arts 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 board of healing arts may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license or certificate.~~

(b) ~~Local and state law enforcement officers and agencies shall assist the state board of healing arts in taking and processing of fingerprints of applicants for and holders of any license or certificate and shall release all~~

~~records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the state board of healing arts.~~

~~(c)~~ The state board of healing arts may fix and collect a fee as may be required by the board in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the healing arts fee fund.

~~(d)~~*(c)* This section shall be a part of and supplemental to the physical therapy practice act.

Sec. 58. K.S.A. 2023 Supp. 65-3407 is hereby amended to read as follows: 65-3407. (a) Except as otherwise provided by K.S.A. 65-3407c, and amendments thereto, no person shall construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system, except for clean rubble disposal sites, without first obtaining a permit from the secretary.

(b) Every person desiring to obtain a permit to construct, alter or operate a solid waste processing facility or disposal area shall make application for such a permit on forms provided for such purpose by the rules and regulations of the secretary and shall provide the secretary with such information as necessary to show that the facility or area will comply with the purpose of this act. Upon receipt of any application and payment of the application fee, the secretary, with advice and counsel from the local health authorities and the county commission, shall make an investigation of the proposed solid waste processing facility or disposal area and determine whether it complies with the provisions of this act and any rules and regulations and standards adopted thereunder. The secretary also may consider the need for the facility or area in conjunction with the county or regional solid waste management plan. If the investigation reveals that the facility or area conforms with the provisions of the act and the rules and regulations and standards adopted thereunder, the secretary shall approve the application and shall issue a permit for the operation of each solid waste processing or disposal facility or area set forth in the application. If the facility or area fails to meet the rules and regulations and standards required by this act the secretary shall issue a report to the applicant stating the deficiencies in the application. The secretary may issue temporary permits conditioned upon corrections of construction methods being completed and implemented.

(c) Before reviewing any application for permit, the secretary shall conduct a background investigation of the applicant. The secretary shall consider the financial, technical and management capabilities of the applicant as conditions for issuance of a permit. The secretary may reject the application prior to conducting an investigation into the merits of the application if the secretary finds that:

(1) The applicant currently holds, or in the past has held, a permit under this section and while the applicant held a permit under this section the applicant violated a provision of K.S.A. 65-3409(a), and amendments thereto;

(2) the applicant previously held a permit under this section and that permit was revoked by the secretary;

(3) the applicant failed or continues to fail to comply with any of the provisions of the air, water or waste statutes, including rules and regulations issued thereunder, relating to environmental protection or to the protection of public health in this or any other state or the federal government of the United States, or any condition of any permit or license issued by the secretary; or if the secretary finds that the applicant has shown a lack of ability or intention to comply with any provision of any law referred to in this subsection or any rule and regulation or order or permit issued pursuant to any such law as indicated by past or continuing violations; or

(4) the applicant is a corporation and any principal, shareholder, or other person capable of exercising total or partial control of such corporation could be determined ineligible to receive a permit pursuant to paragraph (1), (2) or (3).

(d) Before reviewing any application for a permit, the secretary may request that the attorney general perform a comprehensive criminal background investigation of the applicant~~,~~, or in the case of a corporate applicant, any principal, shareholder or other person capable of exercising total or partial control of the corporation *in accordance with section 3, and amendments thereto*. The secretary may reject the application prior to conducting an investigation into the merits of the application if the secretary finds that serious criminal violations have been committed by the applicant or a principal of the corporation.

(e) (1) The fees for a solid waste processing or disposal permit shall be established by rules and regulations adopted by the secretary. The fee for the application and original permit shall not exceed $5,000. Except as provided by paragraphs (2) and (3), the annual permit renewal fee shall not exceed $2,000. No refund shall be made in case of revocation. In establishing fees for a construction and demolition landfill, the secretary shall adopt a differential fee schedule based upon the volume of construction and demolition waste to be disposed of at such landfill. All fees shall be deposited in the state treasury and credited to the solid waste management fund. Except for the annual permit renewal fees provided in paragraph (3), a city, county, other political subdivision or state agency shall be exempt from payment of the fee but shall meet all other provisions of this act.

(2) Except as provided in paragraph (3), the annual permit renewal fee for a solid waste disposal area that is permitted by the secretary,

owned or operated by the facility generating the waste and used only for industrial waste generated by such facility shall be not less than $1,000 and not more than $4,000. In establishing fees for such disposal areas, the secretary shall adopt a differential fee schedule based upon the characteristics of the disposal area sites.

(3) (A) For each solid waste disposal area and each solid waste processing facility that is permitted by the secretary and subject to the requirements of 40 C.F.R. 257 subpart D, as in effect on July 1, 2017, or any later version adopted by reference by the secretary in rules and regulations, the annual permit renewal fee shall be not less than $12,000 and not more than $16,000.

(B) The minimum fee shall apply until a fee schedule is established by the secretary in rules and regulations.

(C) If a single permit encompasses more than one solid waste disposal area or solid waste processing facility, the total fee for the permit shall be an amount equal to the sum of the fees for each solid waste disposal area and each solid waste processing facility subject to 40 C.F.R. 257 subpart D encompassed in the permit.

(D) The first annual permit fee is due on September 1, 2022.

(E) If such solid waste disposal area or solid waste processing facility is operating under a federally issued coal combustion residuals (CCR) permit that includes all applicable requirements of 40 C.F.R. 257 subpart D, then the fees provided in this paragraph shall no longer apply and such disposal area or facility shall be subject to the fees provided in paragraph (2).

(F) Upon a determination by the department of health and environment that such solid waste disposal area or solid waste processing facility has met all applicable post-closure care requirements of 40 C.F.R. 257 subpart D, and article 29 of the Kansas administrative regulations, then such disposal area or facility shall no longer be subject to permitting under this paragraph.

(f) Plans, designs and relevant data for the construction of solid waste processing facilities and disposal sites shall be prepared by a professional engineer licensed to practice in Kansas and shall be submitted to the department for approval prior to the construction, alteration or operation of such facility or area. In adopting rules and regulations, the secretary may specify sites, areas or facilities where the environmental impact is minimal and may waive such preparation requirements provided that a review of such plans is conducted by a professional engineer licensed to practice in Kansas.

(g) Each permit granted by the secretary, as provided in this act, shall be subject to such conditions as the secretary deems necessary to protect human health and the environment and to conserve the sites. Such condi-

tions shall include approval by the secretary of the types and quantities of solid waste allowable for processing or disposal at the permitted location.

(h) (1) Before issuing or renewing a permit to operate a solid waste processing facility or solid waste disposal area, the secretary shall require the permittee to demonstrate that funds are available to ensure payment of the cost of closure and postclosure care and provide liability insurance for accidental occurrences at the permitted facility.

(2) If the permittee owns the land where the solid waste processing facility or disposal area is located or the permit for the facility was issued before the date this act is published in the Kansas register, the permittee shall satisfy the financial assurance requirement for closure and postclosure care by providing a trust fund, a surety bond guaranteeing payment, an irrevocable letter of credit or insurance policy, or by passing a financial test or obtaining a financial guarantee from a related entity, to guarantee the future availability of funds. The secretary shall prescribe the methods to be used by a permittee to demonstrate sufficient financial strength to become eligible to use a financial test or a financial guarantee procedure in lieu of providing the other financial instruments. Solid waste processing facilities or disposal areas, except municipal solid waste landfills, may also demonstrate financial assurance costs by use of ad valorem taxing power.

(3) If the permittee does not own the land where the solid waste processing facility or disposal area is located and the permit for the facility is issued after the date this act is published in the Kansas register, the permittee shall satisfy the financial assurance requirement for closure and postclosure care by providing a trust fund, a surety bond guaranteeing payment, or an irrevocable letter of credit.

(4) The secretary shall require each permittee of a solid waste processing facility or disposal area to provide liability insurance coverage during the period that the facility or area is active, and during the term of the facility or area is subject to postclosure care, in such amount as determined by the secretary to insure the financial responsibility of the permittee for accidental occurrences at the site of the facility or area. Any such liability insurance as may be required pursuant to this subsection or pursuant to the rules and regulations of the secretary shall be issued by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. Nothing contained in this subsection shall be deemed to apply to any state agency or department or agency of the federal government.

(i) (1) Permits granted by the secretary as provided by this act shall not be transferable except as follows:

(A) A permit for a solid waste disposal area may be transferred if the area is permitted for only solid waste produced on site from manufacturing and industrial processes or on-site construction or demolition activities and the only change in the permit is a name change resulting from a merger, acquisition, sale, corporate restructuring or other business transaction.

(B) A permit for a solid waste disposal area or a solid waste processing facility may be transferred if the secretary approves of the transfer based upon information submitted to the secretary sufficient to conduct a background investigation of the new owner as specified in subsections (c) and (d) and a financial assurance evaluation as specified in subsection (h). Such information shall be submitted to the secretary not more than one year nor less than 60 days before the transfer. If the secretary does not approve or disapprove the transfer within 30 days after all required information is submitted to the secretary, the transfer shall be deemed to have been approved.

(2) Permits granted by the secretary as provided by this act shall be revocable or subject to suspension whenever the secretary shall determine that the solid waste processing or disposal facility or area is, or has been constructed or operated in violation of this act or the rules and regulations or standards adopted pursuant to the act, or is creating or threatens to create a hazard to persons or property in the area or to the environment, or is creating or threatens to create a public nuisance, or upon the failure to make payment of any fee required under this act.

(3) The secretary also may revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of the provisions of subsection (c)(3) or K.S.A. 65-3409 or 65-3424b, and amendments thereto, have been committed by a permittee, or any principal, shareholder or other person capable of exercising partial or total control over a permittee.

(j) Except as otherwise provided by subsection (i)(1), the secretary may require a new permit application to be submitted for a solid waste processing facility or a solid waste disposal area in response to any change, either directly or indirectly, in ownership or control of the permitted real property or the existing permittee.

(k) In case any permit is denied, suspended or revoked the person, city, county or other political subdivision or state agency may request a hearing before the secretary in accordance with K.S.A. 65-3412, and amendments thereto.

(l) (1) No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this act if such area is located with-

in ½ mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(2) Any permit, issued before the effective date of this act, to construct or operate a solid waste disposal area is hereby declared void if such area is not yet in operation and is located within ½ mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(3) The provisions of this subsection shall not be construed to prohibit:

(A) Issuance of a permit for lateral expansion onto land contiguous to a permitted solid waste disposal area in operation on the effective date of this act;

(B) issuance of a permit for a solid waste disposal area for disposal of a solid waste by-product produced on-site;

(C) renewal of an existing permit for a solid waste area in operation on the effective date of this act; or

(D) activities regulated under K.S.A. 65-163 through 65-165 or 65-171d, and amendments thereto.

(m) Before reviewing any application for a solid waste processing facility or solid waste disposal area, the secretary shall require the following information as part of the application:

(1) Certification by the board of county commissioners or the mayor of a designated city responsible for the development and adoption of the solid waste management plan for the location where the processing facility or disposal area is or will be located that the processing facility or disposal area is consistent with the plan. This certification shall not apply to a solid waste disposal area for disposal of only solid waste produced on site from manufacturing and industrial processes or from on-site construction or demolition activities.

(2) If the location is zoned, certification by the local planning and zoning authority that the processing facility or disposal area is consistent with local land use restrictions or, if the location is not zoned, certification from the board of county commissioners that the processing facility or disposal area is compatible with surrounding land use.

(3) For a solid waste disposal area permit issued on or after July 1, 1999, proof that the applicant either owns the land where the disposal area will be located or operates the solid waste disposal area for an adjacent or on-site industrial facility, if the disposal area is:

(A) A municipal solid waste landfill; or

(B) a solid waste disposal area that has:

(i) A leachate or gas collection or treatment system;

(ii) waste containment systems or appurtenances with planned maintenance schedules; or

(iii) an environmental monitoring system with planned maintenance schedules or periodic sampling and analysis requirements.

(4) If the applicant does not own the land, the applicant shall also provide proof that the applicant has acquired and duly recorded an easement to the landfill property. The easement shall authorize the applicant to carry out landfill operations, closure, post-closure care, monitoring, and all related construction activities on the landfill property as required by applicable solid waste laws and regulations, as established in permit conditions, or as ordered or directed by the secretary. Such easement shall run with the land if the landfill property is transferred and the easement may only be vacated with the consent of the secretary. These requirements shall not apply to a permit for lateral or vertical expansion contiguous to a permitted solid waste disposal area in operation on July 1, 1999, if such expansion is on land leased by the permittee before April 1, 1999.

Sec. 59. K.S.A. 65-3503 is hereby amended to read as follows: 65-3503. (a) It shall be the duty of the board to:

(1) Develop, impose and enforce standards that shall be met by individuals in order to receive a license as an adult care home administrator and that shall be designed to ensure that adult care home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as adult care home administrators;

(2) develop examinations and investigations for determining whether an individual meets such standards;

(3) issue licenses to individuals who meet such standards, and revoke or suspend licenses issued by the board or reprimand, censure or otherwise discipline a person holding any such license as provided under K.S.A. 65-3508, and amendments thereto;

(4) establish and carry out procedures designed to ensure that individuals licensed as adult care home administrators comply with the requirements of such standards; and

(5) receive, investigate and take appropriate action under K.S.A. 65-3505, and amendments thereto, and rules and regulations adopted by the board with respect to any charge or complaint filed with the board to the effect that any person licensed as an adult care home administrator may be subject to disciplinary action under K.S.A. 65-3505 and 65-3508, and amendments thereto.

(b) The board shall also have the power to make rules and regulations, not inconsistent with law, as may be necessary for the proper performance of its duties, and to have subpoenas issued pursuant to K.S.A. 60-245, and amendments thereto, in the board's exercise of its power and to take such other actions as may be necessary to enable the state to meet the requirements set forth in section 1908 of the social security act, the fed-

eral rules and regulations promulgated thereunder and other pertinent federal authority.

(c) The board shall fix by rules and regulations the licensure fee, temporary license fee, renewal fee, late renewal fee, reinstatement fee, reciprocity fee, sponsorship fee, wall or wallet card license replacement fee, duplicate wall license fee for any administrator serving as administrator in more than one facility and, if necessary, an examination fee under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of the act. No fee shall be more than $200. The secretary for aging and disability services shall remit all moneys received from fees, charges or penalties 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 health occupations credentialing fee fund created by K.S.A. 39-979, and amendments thereto.

(d) The board upon request shall receive from the Kansas bureau of investigation, without charge, such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board *in accordance with section 3, and amendments thereto*.

Sec. 60. K.S.A. 65-4209 is hereby amended to read as follows: 65-4209. (a) The board may deny, revoke, limit or suspend any license to practice as a mental health technician issued or applied for in accordance with the provisions of this act, may publicly or privately censure a licensee or may otherwise discipline a licensee upon proof that the licensee:

(1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice mental health technology;

(2) is unable to practice with reasonable skill and safety due to current abuse of drugs or alcohol;

(3) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(4) is incompetent or grossly negligent in carrying out the functions of a mental health technician;

(5) has committed unprofessional conduct as defined by rules and regulations of the board;

(6) has been convicted of a felony or has been convicted of a misdemeanor involving an illegal drug offense, unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license, certificate of qualification or authorization to practice as a licensed mental health technician shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the

Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(7) has committed an act of professional incompetency as defined in subsection (e);

(8) to have willfully or repeatedly violated the provisions of the mental health technician's licensure act or rules and regulations adopted under that act and amendments thereto; or

(9) to have a license to practice mental health technology denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (9).

(b) Upon filing a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds to believe the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the Kansas administrative procedure act.

(c) No person shall be excused from testifying in any proceedings before the board under the mental health technician's licensure act or in any civil proceedings under such act before a court of competent jurisdiction on the ground that the testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-5903, and amendments thereto.

(d) If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district

court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) As used in this section, "professional incompetency" means:

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

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

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice mental health technology.

(f) The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board *in accordance with section 3, and amendments thereto*.

(g) All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 61. K.S.A. 65-5117 is hereby amended to read as follows: 65-5117. (a) As used in this section:

(1) "Applicant" means an individual who applies for employment with a home health agency or applies to work for an employment agency or as an independent contractor that provides staff to a home health agency.

(2) "Completion of the sentence" means the last day of the entire term of incarceration imposed by a sentence, including any term that is deferred, suspended or subject to parole, probation, diversion, community corrections, fines, fees, restitution or any other imposed sentencing requirements.

(3) "Department" means the Kansas department for aging and disability services.

(4) "Direct access" means work that involves an actual or reasonable expectation of one-on-one interaction with a consumer or a consumer's property, personally identifiable information, medical records, treatment information or financial information.

(5) "Direct supervision" means that a supervisor is physically present within an immediate distance to a supervisee and is available to provide constant direction, feedback and assistance to a client and the supervisee.

(6) "Employment agency" means an organization or entity that has a contracted relationship with a home health agency to provide staff with direct access to consumers.

(7) "Independent contractor" means an organization, entity, agency or individual that provides contracted workers or services to a home health agency.

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

21-5302, and amendments thereto, or criminal solicitation of any of the crimes listed in this paragraph, pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto, or similar statutes of other states or the federal government. The provisions of subsection (b)(2)(C) shall not apply to any person who is employed by a home health agency on or before July 1, 2010, and while continuously employed by the same home health agency or to any person during or upon successful completion of a diversion agreement.

(2) A person operating a home health agency may employ an applicant who has been convicted of any of the following if six or more years have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification: A felony conviction for a crime that is described in: (A) Article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, except those crimes listed in subsection (b)(1); (B) article 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6420, and amendments thereto, except those crimes listed in subsection (b)(1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 21-5606, and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A. 21-5801, and amendments thereto; (D) an attempt to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3301, prior to its repeal, or K.S.A. 21-5301, and amendments thereto; (E) a conspiracy to commit any of the crimes listed in this paragraph pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 21-5302, and amendments thereto; (F) criminal solicitation of any of the crimes listed in this paragraph pursuant to K.S.A. 21-3303, prior to its repeal, or K.S.A. 21-5303, and amendments thereto; or (G) similar statutes of other states or the federal government.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (2) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and the criteria to be utilized by the secretary in evaluating any such waiver request.

(3) A person operating a home health agency may employ an applicant who has been convicted of any of the following if six or more years

have elapsed since completion of the sentence imposed or the applicant was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; if six or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer; or if the applicant has been granted a waiver of such six-year disqualification:

(i) Interference with custody of a committed person pursuant to K.S.A. 21-3423, prior to its repeal, or K.S.A. 21-5410, and amendments thereto; mistreatment of a confined person pursuant to K.S.A. 21-3425, prior to its repeal, or K.S.A. 21-5416, and amendments thereto; unlawful administration of a substance pursuant to K.S.A. 21-3445, prior to its repeal, or K.S.A. 21-5425, and amendments thereto; violation of a protective order pursuant to K.S.A. 21-3843, prior to its repeal, or K.S.A. 21-5924; promoting obscenity or promoting obscenity to minors pursuant to K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 21-6401, and amendments thereto; or cruelty to animals pursuant to K.S.A. 21-3727, 21-4310 or 21-4311, prior to their repeal, or K.S.A. 21-6412, and amendments thereto; or

(ii) any felony conviction of: Unlawful manufacture of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a03, prior to its repeal, or K.S.A. 21-5703, and amendments thereto; unlawful cultivation or distribution of a controlled substance pursuant to K.S.A. 2010 Supp. 21-36a05, prior to its repeal, or K.S.A. 21-5705, and amendments thereto; unlawful manufacture, distribution, cultivation or possession of a controlled substance using a communication facility pursuant to K.S.A. 2010 Supp. 21-36a07, prior to its repeal, or K.S.A. 21-5707, and amendments thereto; unlawful obtainment or sale of a prescription-only drug pursuant to K.S.A. 2010 Supp. 21-36a08, prior to its repeal, or K.S.A. 21-5708, and amendments thereto; unlawful distribution of drug precursors or drug paraphernalia pursuant to K.S.A. 2010 Supp. 21-36a10, prior to its repeal, or K.S.A. 21-5710, and amendments thereto; unlawful distribution or possession of a simulated controlled substance pursuant to K.S.A. 2010 Supp. 21-36a13, prior to its repeal, or K.S.A. 21-5713, and amendments thereto; forgery pursuant to K.S.A. 21-3710, prior to its repeal, or K.S.A. 21-5823, and amendments thereto; criminal use of a financial card pursuant to K.S.A. 21-3729, prior to its repeal, or K.S.A. 21-5828, and amendments thereto; any violation of the Kansas medicaid fraud control act pursuant to K.S.A. 21-3844 et seq., prior to their repeal, or K.S.A. 21-5925 et seq., and amendments thereto; making a false claim, statement or representation to the medicaid program pursuant to K.S.A. 21-3846, prior to its repeal, or K.S.A. 21-5927, and amendments thereto; unlawful acts relating to the medicaid program pursuant to K.S.A.

21-3847, prior to its repeal, or K.S.A. 21-5928, and amendments thereto; obstruction of a medicaid fraud investigation pursuant to K.S.A. 21-3856, prior to its repeal, or K.S.A. 21-5929, and amendments thereto; identity theft or identity fraud pursuant to K.S.A. 21-4018, prior to its repeal, or K.S.A. 21-6107, and amendments thereto; or social welfare fraud pursuant to K.S.A. 39-720, and amendments thereto. The provisions of this paragraph shall not apply to any person who is employed by a home health agency on or before July 1, 2018, and is continuously employed by the same home health agency or to any person during or upon successful completion of a diversion agreement.

An individual who has been disqualified for employment due to conviction or adjudication of an offense listed in this paragraph (3) may apply to the secretary for aging and disability services for a waiver of such disqualification if five years have elapsed since completion of the sentence for such conviction. The secretary shall adopt rules and regulations establishing the waiver process and criteria to be considered by the secretary in evaluating any such waiver request.

(c) No person shall operate a home health agency if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in the act for obtaining a guardian or a conservator, or both. The provisions of this subsection shall not apply to an individual who, as a minor, was found to be in need of a guardian or conservator for reasons other than impairment.

(d) (1) The Kansas bureau of investigation shall release all records of adult and juvenile convictions and adjudications and adult and juvenile convictions and adjudications of any other state or country concerning persons working in a home health agency to the secretary for aging and disability services *in accordance with section 2, and amendments thereto*. ~~The Kansas bureau of investigation may charge to the Kansas department for aging and disability services a reasonable fee for providing criminal history record information under this subsection.~~

(2) The department ~~shall~~ *may* require an applicant to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or other jurisdiction. 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. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and for making an official determination of the qualifications and fitness of the person to work in the home health agency.~~

(3) An applicant for employment in ~~an~~ *a* home health agency shall have 20 calendar days after receipt of authorization to submit the applicant's fingerprints through an authorized collection site in order to be eligible for provisional employment or the applicant's application shall be deemed withdrawn.

(4) (A) The current or prospective employer of an applicant shall pay a *reasonable* fee ~~not to exceed $19 of the total cost~~ for criminal history record information to the department for each applicant submitted.

(B) The prospective employer, employee or independent contractor shall pay the fingerprint collection fee at the time of fingerprinting to the authorized collection site.

(5) If an applicant disputes the contents of a criminal history record check, then the applicant may file an appeal with the Kansas bureau of investigation.

(6) Individuals who have been disqualified for employment by reason of their criminal history records and who have met the requirements of this subsection may apply for a waiver with the department within 30 days of the receipt of the notice of employment prohibition.

(7) The department shall adopt rules and regulations specifying the criteria and procedure for issuing a waiver of the employment prohibition. The secretary shall consider the following criteria when rendering a decision on such a waiver request: Passage of time; extenuating circumstances; demonstration of rehabilitation; and relevancy of the criminal history record information to the position for which the applicant is applying. Any employment prohibition issued shall remain in effect unless or until a waiver is granted.

(e) For the purpose of complying with this section, the operator of a home health agency shall request from the Kansas department for aging and disability services an eligibility determination regarding adult and juvenile convictions and adjudications. For the purpose of complying with this section, a person who operates a home health agency may hire an applicant for provisional employment on a one-time basis of 60 calendar days pending the results from the Kansas department for aging and disability services of a request for information under this subsection. A provisional employee may only be supervised by an employee who has completed all training required by federal regulations, rules and regulations of the department and the home health agency's policies and procedures. No home health agency, the operator or employees of a home health agency or an employment agency or an independent contractor shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such home health agency's compliance with the provisions of this section if such home health agency or employment agency acts in good faith to comply with this section.

(f) The secretary for aging and disability services shall provide each operator requesting information under this section with a pass or fail determination after review of any criminal history information in writing and within three working days of receipt of such information from the Kansas bureau of investigation or the federal bureau of investigation.

(g) A person who volunteers to assist a home health agency shall not be subject to the provisions of this section unless the volunteer performs functions equivalent to functions performed by direct access employees.

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

(i) The operator of a home health agency shall not be required under this section to conduct a criminal history record check on an applicant for employment with the home health agency if the applicant has been the subject of a criminal history record check under this act within one year prior to the application for employment with the home health agency.

(j) No person who is in the custody of the secretary of corrections and who provides services, under direct supervision in non-patient areas, on the grounds or other areas designated by the superintendent of the Kansas soldiers' home or the Kansas veterans' home shall be subject to the provisions of this section while providing such services.

(k) (1) All fees charged by the secretary for criminal history record checks conducted pursuant to this section shall be established by rules and regulations of the secretary.

(2) All moneys collected and remitted to the department for fees charged for criminal history record checks conducted pursuant to this section shall be remitted to the state treasurer in accordance with K.S.A. 65-5113, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the state licensure fee fund created by K.S.A. 39-930, and amendments thereto.

(l) The department may implement the amendments made to this section by this act in phases for different categories of employers. The department shall adopt rules and regulations establishing dates and procedures for the implementation of the criminal history record checks required by this section, and such dates may be staggered to facilitate implementation of the criminal history record checks required by this section.

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

Sec. 62. K.S.A. 2023 Supp. 65-6129 is hereby amended to read as follows: 65-6129. (a) (1) Application for an emergency medical service provider certificate shall be made to the board. The board shall not grant

an emergency medical service provider certificate unless the applicant meets the following requirements:

(A) (i) Has successfully completed coursework required by the rules and regulations adopted by the board;

(ii) has successfully completed coursework in another jurisdiction that is substantially equivalent to that required by the rules and regulations adopted by the board; or

(iii) has provided evidence that such applicant holds a current and active certification with the national registry of emergency medical technicians, completed emergency medical technician training as a member of the army, navy, marine corps, air force, air or army national guard, coast guard or any branch of the military reserves of the United States that is substantially equivalent to that required by the rules and regulations adopted by the board, and such applicant separated from such military service with an honorable discharge;

(B) (i) has passed the examination required by the rules and regulations adopted by the board; or

(ii) has passed the certification or licensing examination in another jurisdiction that has been approved by the board; and

(C) has paid an application fee required by the rules and regulations adopted by the board.

(2) The board may grant an emergency medical service provider certificate to any applicant who meets the requirements under subsection (a)(1)(A)(iii) but was separated from such military service with a general discharge under honorable conditions.

(b) (1) The emergency medical services board may require an original applicant for certification as an emergency medical services provider to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~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 emergency medical services board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The emergency medical services board may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of the applicant and making the official determination of the qualifications and fitness of the applicant to be issued or to maintain a certificate.~~

(2) ~~Local and state law enforcement officers and agencies shall assist the emergency medical services board in taking the fingerprints of applicants for license, registration, permit or certificate. The Kansas bureau of investigation shall release all records of adult convictions, nonconvictions~~

~~or adjudications in this state and any other state or country to the emergency medical services board~~*As used in this section, "applicant" means a person who has submitted an application for an emergency medical services provider certificate.*

(3) The emergency medical services board may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. The emergency medical services board shall remit all moneys received from the fees established by this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the emergency medical services criminal history and fingerprinting fund.

(4) There is hereby created in the state treasury the emergency medical services criminal history and fingerprinting fund. All moneys credited to the fund shall be used to pay the Kansas bureau of investigation for the processing of fingerprints and criminal history record checks for the emergency medical services board. The fund shall be administered by the emergency medical services board. 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 chairperson of the emergency medical services board or the chairperson's designee.

(c) The board shall not grant an initial advanced emergency medical technician certificate or paramedic certificate as a result of successful course completion in the state of Kansas, unless the applicant for such an initial certificate is certified as an emergency medical technician.

(d) An emergency medical service provider certificate shall expire on the date prescribed by the board. An emergency medical service provider certificate may be renewed for a period of two years upon payment of a fee as prescribed by rule and regulation of the board and upon presentation of satisfactory proof that the emergency medical service provider has successfully completed continuing education as prescribed by the board.

(e) All fees received pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the emergency medical services operating fund established by K.S.A. 65-6151, and amendments thereto.

(f) If a person who was previously certified as an emergency medical service provider applies for an emergency medical service provider's certificate after the certificate's expiration, the board may grant a certificate without the person completing an initial course of instruction or passing a

certification examination if the person has completed education requirements and has paid a fee as specified in rules and regulations adopted by the board.

(g) The board shall adopt, through rules and regulations, a formal list of graduated sanctions for violations of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, that shall specify the number and severity of violations for the imposition of each level of sanction.

Sec. 63. K.S.A. 73-1210a is hereby amended to read as follows: 73-1210a. (a) Except as otherwise provided by law, and subject to the Kansas civil service act, the director of the Kansas commission on veterans affairs office shall appoint:

(1) Subordinate officers and employees, subject to the approval of the governor, as are necessary to enable the director to exercise or perform the functions, powers and duties pursuant to the provisions of article 12 of chapter 73 of the Kansas Statutes Annotated, and amendments thereto;

(2) the superintendent of the Kansas soldiers' home;

(3) the superintendent of the Kansas veterans' home; and

(4) the deputy director of veterans services pursuant to K.S.A. 73-1234, and amendments thereto.

(b) *(1)* Upon the commencement of the interview process, every candidate ~~for a position in the Kansas commission on veterans affairs office that interviews claimants and provides information advice and counseling to veterans, surviving spouses, their dependents concerning compensation, pension, education, vocational rehabilitation, insurance, hospitalization, outpatient care, home loans, housing, tax exemptions, burial benefits and other benefits to which they may be entitled, or any other sensitive position, as determined by the director~~ shall be given a written notice that a criminal history records check is required. The director of the Kansas commission on veterans affairs office shall require such candidates to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the candidate and to determine whether the candidate has a record of criminal history in this state or another jurisdiction. The director of the Kansas commission on veterans affairs office 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 director of the Kansas commission on veterans affairs office in taking and processing of fingerprints of candidates. If the criminal history record information reveals any conviction of crimes of dishonesty or violence, such conviction may be used to disqualify a candidate for any position within the director of~~

~~the Kansas commission on veterans affairs office. If the criminal history record information is used to disqualify a candidate, the candidate shall be informed in writing of that decision.~~

(2) As used in this subsection, "candidate" means an applicant for a position in the Kansas commission on veterans affairs office that interviews claimants and provides information, advice and counseling to veterans, surviving spouses and their dependents concerning compensation, pension, education, vocational rehabilitation, insurance, hospitalization, outpatient care, home loans, housing, tax exemptions, burial benefits and other benefits to which they may be entitled.

(c) Persons employed by the Kansas soldiers' home and Kansas veterans' home shall be excluded from the provisions of subsection (b). No person who has been employed by the director of the Kansas commission on veterans affairs office for five consecutive years immediately prior to the effective date of this act shall be subject to the provisions of subsection (b) while employed by the director of the Kansas commission on veterans affairs office.

(d) (1) Except as otherwise provided by law, and subject to the Kansas civil service act, the director of the Kansas commission on veterans affairs office shall appoint subordinate officers and employees, a superintendent of the Kansas soldiers' home and a superintendent of the Kansas veterans' home, as shall be necessary to enable the director of the Kansas commission on veterans affairs office to exercise or perform its functions, powers and duties pursuant to the provisions of article 19 of chapter 76 of the Kansas Statutes Annotated, and amendments thereto.

(2) (A) All subordinate officers and employees shall be within the classified service under the Kansas civil service act, shall perform such duties and exercise such powers as the director of the Kansas commission on veterans affairs office may prescribe and such duties and powers as are designated by law, and shall act for and exercise the powers of the the director of the Kansas commission on veterans affairs office.

(B) The superintendent of the Kansas soldiers' home shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the director of the Kansas commission on veterans affairs office, with the approval of the governor. The superintendent of the Kansas soldiers' home shall perform such duties and exercise such powers as the director may prescribe, and such duties and powers as are prescribed by law.

(C) The superintendent of the Kansas veterans' home shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the director of the Kansas commission on veterans affairs office, with the approval of the governor. The superintendent of the Kansas veterans' home shall perform such duties and exercise such

powers as the director may prescribe, and such duties and powers as are prescribed by law.

(e) Any veterans service representative appointed by the director of the Kansas commission on veterans affairs office shall be an honorably discharged veteran or retired from the United States armed forces. No veterans service representative of the Kansas commission on veterans affairs office shall take a power of attorney in the name of the director of the Kansas commission on veterans affairs office. Nothing in this act shall be construed to prohibit any such veterans service representative from assisting any veteran with any claim in which a power of attorney is not required.

(f) For the purpose of this subsection, "veterans service representative" means any officer or employee appointed pursuant to this section whose primary duties include:

(1) Assisting veterans and their dependents in securing benefits from the federal government and the state of Kansas.

(2) Providing information and assistance to veterans and dependents in obtaining special services and benefits based on knowledge of federal and state laws, policies and regulations pertaining to veterans benefits and services.

(3) Providing assistance to veterans service organizations participating in the veterans claims assistance program.

~~(f)~~*(g)* Nothing in this act shall be construed to affect the status, rights or benefits of any officer or employee of the Kansas commission on veterans affairs under K.S.A. 73-1208a, prior to its repeal, employed by such commission on July 1, 2014.

Sec. 64. K.S.A. 74-1112 is hereby amended to read as follows: 74-1112. (a) The board of nursing may require an ~~original applicant for licensure as a professional nurse, practical nurse or mental health technician~~ *application* to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~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 other jurisdictions. The board of nursing 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 board of nursing may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of any applicant and in the official determination of character and fitness of the applicant for any licensure to practice professional or practical nursing or mental health technology in this state.~~

~~(b) Local and state law enforcement officers and agencies shall assist the board of nursing in taking and processing of fingerprints of applicants~~

~~to practice professional or practical nursing or mental health technology in this state and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the board of nursing.~~

~~(e)~~*(b)* The board shall fix a fee for fingerprinting of applicants or licensees, or both, as may be required by the board in an amount necessary to reimburse the board for the cost of the fingerprinting. Fees collected under this subsection shall be deposited in the criminal background and fingerprinting fund.

~~(d)~~*(c)* There is hereby created in the state treasury the criminal background and fingerprinting fund. All moneys credited to the fund shall be used to pay the Kansas bureau of investigation for the processing of fingerprints and criminal history background checks for the board of nursing. The fund shall be administered by the board of nursing. 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 president of the board or a person designated by the president.

(d) As used in this section, "applicant" means a person who has applied for licensure as a professional nurse, practical nurse or mental health technician.

Sec. 65. K.S.A. 74-2113 is hereby amended to read as follows: 74-2113. (a) *(1)* There is hereby created a Kansas highway patrol. The patrol shall consist of:

~~(1)~~*(A)* A superintendent, who shall have the rank of colonel and who shall have special training and qualifications for the position;

~~(2)~~*(B)* an assistant superintendent, who shall have the rank of lieutenant colonel; and

~~(3)~~*(C)* officers and troopers who are appointed in accordance with appropriation acts and as provided in this section.

(2) The superintendent and assistant superintendent shall be within the unclassified service under the Kansas civil service act. The assistant superintendent shall be appointed by the superintendent from among the members of the patrol, and shall serve at the pleasure of the superintendent. If a person appointed as superintendent, assistant superintendent or major is a member of the patrol when appointed, the person in each case, upon termination of the term as superintendent, assistant superintendent or major, respectively, shall be returned to a rank not lower than the rank the person held when appointed as superintendent, assistant superintendent or major. If the rank is filled at that time, a temporary additional position shall be created in the rank until a vacancy occurs in such rank. All other officers, troopers and employees shall be within the classified service under the Kansas civil service act.

(b) The superintendent of the patrol shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and shall receive an annual salary fixed by the governor. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as superintendent shall exercise any power, duty or function as superintendent until confirmed by the senate. The assistant superintendent shall receive an annual salary fixed by the superintendent and approved by the governor.

(c) All other members of the patrol shall be appointed by the superintendent in accordance with appropriation acts and with the Kansas civil service act. No person shall be appointed as an officer of the patrol, other than superintendent, unless the person has had at least five years of service in the patrol as an officer or trooper. No person shall be appointed as a trooper unless the person meets the following requirements:

(1) Is a citizen of the United States;

(2) is at least 21 years of age at the time of appointment;

(3) has not been convicted by any state or the federal government of a crime which is a felony or its equivalent under the uniform code of military justice;

(4) has been fingerprinted *pursuant to section 1, and amendments thereto,* and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;

(5) is the holder of a high school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement; and

(6) is free of any physical or mental condition which might adversely affect the applicant's performance of duties as a trooper and whose physical health has been certified by an examining physician appointed by the superintendent.

(d) No member of the patrol shall:

(1) Hold any other elective or appointive commission or office, except:

(A) In the Kansas national guard or in the organized reserve of the United States army, air force or navy.

(B) In the governing body of a municipality:

(i) If the position to be held is appointed; or

(ii) if the position to be held is elected on a nonpartisan basis.

(C) On any appointed board, commission or task force which the superintendent of the highway patrol deems necessary as part of the member's or officer's duties.

(2) Accept any employment or compensation from any licensee of the director of alcoholic beverage control of the department of revenue or from any licensee of the Kansas racing commission or from any officer, director, member or employee of any such licensee.

(3) Accept any employment or compensation for services which require the use of any state-owned equipment provided by the Kansas highway patrol or the wearing of the patrol uniform.

(4) Accept any reward or gift pertaining to the performance of the member's or officer's duties except with the written permission of the superintendent.

(e) For the purposes of this section, the terms "governing body" and "municipality" shall have the meanings ascribed to such terms in K.S.A. 12-105a, and amendments thereto.

Sec. 66. K.S.A. 74-4905 is hereby amended to read as follows: 74-4905. (a) On July 1, 1993, the board of trustees of the Kansas public employees retirement system, as such board existed on June 30, 1993, is hereby abolished. On July 1, 1993, there is hereby established a new board of trustees of the Kansas public employees retirement system. Such board established on July 1, 1993, shall consist of nine members, as follows:

(1) Six appointed members, four appointed by the governor subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, one appointed by the president of the senate and one appointed by the speaker of the house of representatives. Except as provided by K.S.A. 46-2601, *and amendments thereto,* no person appointed to the board whose appointment is subject to confirmation, shall exercise any power, duty or function as a member of the board until confirmed by the senate. No more than two members of the board whose appointment is subject to confirmation shall be from the same political party;

(2) two retirement system members elected by the members and retirants of the system as provided in ~~subsection (12) of~~ K.S.A. 74-4909*(12),* and amendments thereto. As provided in this subsection, only active and retired members of the system shall be eligible to be elected to the board and only active and retired members of the system shall be eligible to elect the two retirement system members pursuant to this subsection. Inactive members shall not be eligible to be elected to the board nor to elect the two retirement system members elected pursuant to this subsection. If a member elected to the board as provided in this subsection becomes inactive, such member is disqualified from service on the board and such member's board position shall be vacant and such vacancy shall be filled as provided in subsection (b)(1). Of the two retirement system members elected pursuant to this subsection, one shall be a member of the retirement system who is in school employment as provided in K.S.A. 74-4931et seq., and amendments thereto and one shall be a member of the retirement system other than a member who is in school employment. For purposes of this subsection, retirement system means the Kansas public employees retirement system, the Kansas police and firemen's retirement system and the retirement system for judges; and

(3) the state treasurer.

(b) (1) Except as provided by this paragraph and paragraph (2), all members of the board as provided in subsection (a)(1) and (a)(2) shall serve four-year terms, except that of the members first appointed by the governor, two shall be appointed for two-year terms and the member appointed by the speaker of the house of representatives shall be appointed for a two-year term. The governor shall designate the term for which each of the members first appointed shall serve. All members appointed to fill vacancies in the membership of the board and all members appointed to succeed members appointed to membership on the board shall be appointed in like manner as that provided for the original appointment of the member succeeded. All members appointed to fill vacancies of a member of the board appointed by the governor, the president of the senate or the speaker of the house of representatives shall be appointed to fill the unexpired term of such member. All vacancies on the board by a member elected by the members and retirants of the system shall be filled by the board as provided by rules and regulations adopted as provided in ~~subsection (12) of~~ K.S.A. 74-4909*(12),* and amendments thereto.

(2) Except as provided in K.S.A. 46-2601, *and amendments thereto,* no person appointed to the board by the governor shall exercise any power, duty or function as a member of the board until confirmed by the senate. The terms of members appointed by the governor who are serving on the board on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and confirmed.

(c) The board shall elect a chairperson of the board at the first regular meeting held on or after July 1, 1993, and at each annual meeting thereafter from the members of the board. The chairperson shall preside over meetings of the board and perform such other duties as required by the board.

(d) The chairperson shall appoint another board member as vice-chairperson, and the vice-chairperson shall perform the duties of chairperson in the absence of the chairperson or upon the chairperson's inability or refusal to act.

(e) The six members appointed pursuant to subsection (a)(1) shall have demonstrated experience in the financial affairs of a public or private organization or entity which employs 100 or more employees or had at least five years' experience in the field of investment management or analysis, actuarial analysis or administration of an employee benefit plan.

(f) No person shall serve on the board if such person has knowingly acquired a substantial interest in any nonpublicly traded investment made with moneys of the fund. Any such person who knowingly acquires such

an interest shall vacate such member's position on the board and shall be guilty of a class A misdemeanor. For purposes of this subsection, "substantial interest" means any of the following:

(1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding $5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.

(2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of $2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.

(3) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

(4) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of $2,000 or more in the preceding calendar year.

(5) If an individual or an individual's spouse has received a loan from or received financing from any bank, savings and loan, credit union or any other financial institution in an amount which exceeds $2,000, the individual has a substantial interest in that financial institution.

(6) As used in this subsection, "client or customer" means a business or combination of businesses.

(7) Any person who serves on the board shall fully disclose any substantial interest that such person has in any publicly traded investment made with moneys of the fund.

(g) No person who serves on the board shall be employed for a period of two years commencing on the date the person no longer serves on the board and ending two years after such date with any organization in which moneys of the fund were invested, except that the employment limitation contained in this subsection shall not apply if such person's employment is with an organization whose stock or other evidences of ownership are traded on the public stock or bond exchanges.

(h) All members of the board named, appointed or elected to the board shall be ~~subject to an investigation by the Kansas bureau of investigation or other criminal justice agencies~~ *fingerprinted and to submit*

to a state and national criminal background check in accordance with section 2, and amendments thereto. ~~Information to be obtained during such investigation shall include criminal history record information, including arrest and conviction data, criminal intelligence information and information relating to criminal and background investigations as necessary to determine qualifications of such member. Such information shall be forwarded to the senate committee specified by the president of the senate for such committee's consideration and other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the committee as necessary to determine qualifications of such member.~~ The committee, in accordance with K.S.A. 75-4319, and amendments thereto, shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection.

(i) All of the powers, duties and functions of the board of trustees of the Kansas public employees retirement system as such board existed prior to July 1, 1993, are hereby transferred to and conferred and imposed upon the board of trustees established pursuant to this act. The board of trustees of the Kansas public employees retirement system established pursuant to this act shall be the successor in every way of the powers, duties and functions of the board of trustees existing prior to July 1, 1993, in which the same were vested prior to July 1, 1993.

Sec. 67. K.S.A. 74-50,182 is hereby amended to read as follows: 74-50,182. As used in the Kansas professional regulated sports act:

(a) "Amateur mixed martial arts" means any form of martial arts or self-defense conducted on a full-contact basis in a contest without weapons and in which the contestants compete without valuable consideration.

(b) "Bout" means one match involving a regulated sport.

(c) *"Boxing commissioner" means the person appointed pursuant to K.S.A. 74-50,184, and amendments thereto, who shall be devoted full time to the duties prescribed by the commission.*

(d) "Commission" means the athletic commission or the commission's designee.

~~(d)~~*(e)* "Contest" means a bout or a group of bouts involving licensed contestants competing in a regulated sport.

~~(e)~~*(f)* "Contestant" means a person who is licensed by the commission to compete in a regulated sport.

~~(f)~~*(g)* "Fund" means the athletic fee fund.

~~(g)~~*(h)* "Grappling arts" means any form of grappling including, but not limited to, Brazilian jiujitsu, catch wrestling, judo, luta livre esportiva, sambo, shoot wrestling, shooto and shuai Jiao conducted on a full-contact basis in a bout or contest without weapons or striking and where contestants may compete for valuable consideration.

~~(h)~~*(i)* "Noncompetitive sparring" means boxing, kickboxing or mixed martial arts where a decision is not rendered.

~~(i)~~*(j)* "Pankration" means a martial art system which includes elements of karate, tae-kwon-do, jujitsu, kempo, kung-fu, wrestling, and submission grappling.

~~(j)~~*(k)* "Professional boxing" means the sport of attack and defense which uses the fists and where contestants compete for valuable consideration.

~~(k)~~*(l)* "Professional full-contact karate" means any form of full-contact martial arts including but not limited to full-contact kung fu, full-contact tae-kwon-do or any form of martial arts or self-defense conducted on a full-contact basis in a bout or contest without weapons and where contestants may compete for valuable consideration.

~~(l)~~*(m)* "Professional kickboxing" means any form of kickboxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot, and where contestants compete for valuable consideration.

~~(m)~~*(n)* "Professional mixed martial arts" means any form of martial arts or self-defense conducted on a full-contact basis in a bout or contest without weapons and where contestants compete for valuable consideration.

~~(n)~~*(o)* "Professional wrestling" means any performance of wrestling skills and techniques by two or more professional wrestlers, to which any admission is charged. Participating wrestlers may not be required to use their best efforts in order to win. The winner may have been selected before the performance commences and contestants compete for valuable consideration.

~~(o)~~*(p)* "Regulated sports" means professional boxing, sparring, professional kickboxing, professional and amateur mixed martial arts, grappling arts, pankration, professional wrestling and professional full-contact karate.

~~(p)~~*(q)* "Sparring" means boxing, kickboxing, professional and amateur mixed martial arts, grappling arts, pankration, or full-contact karate for practice or as an exhibition.

Sec. 68. K.S.A. 74-50,184 is hereby amended to read as follows: 74-50,184. (a) The commission shall appoint a boxing commissioner who shall be in the unclassified service under the Kansas civil service act and who shall devote full-time to the duties prescribed by the commission. Before appointing a person as the boxing commissioner, the commission shall request the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person. The boxing commissioner shall have no felony convictions under the laws of any state or of the United States prior to appointment or during such commissioner's employment with the commission. The boxing commissioner shall receive an annual salary fixed by the commission and approved by the governor.

(b) Before appointing a person as the boxing commissioner, the commission shall require fingerprinting of such person necessary to verify qualification for appointment *in accordance with section 2, and amendments thereto*. ~~The commission shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such person and obtaining records of criminal arrests and convictions.~~

~~(c) The commission may receive from the Kansas bureau of investigation or other criminal justice agencies, including but not limited to the federal bureau of investigation and the federal internal revenue service, such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of a person to be appointed as boxing commissioner. Upon the written request of the chairperson of the commission, the commission may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of any person to be appointed as boxing commissioner. Such information, other than conviction data, shall be confidential and shall not be disclosed except to members and employees of the commission as necessary to determine qualifications of such person. Any other disclosure of such confidential information is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act.~~

Sec. 69. K.S.A. 2023 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the university of Kansas, created by K.S.A. 74-5603, and amendments thereto.

(b) "Commission" means the Kansas commission on peace officers' standards and training, created by K.S.A. 74-5606, and amendments thereto, or the commission's designee.

(c) "Chancellor" means the chancellor of the university of Kansas, or the chancellor's designee.

(d) "Director of police training" means the director of police training at the law enforcement training center.

(e) "Director" means the executive director of the Kansas commission on peace officers' standards and training.

(f) "Law enforcement" means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(g) (1) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a

city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(2) "Police officer" or "law enforcement officer" includes, but is not limited to: The sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858, and amendments thereto; conservation officers of the Kansas department of wildlife and parks; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents designated by the secretary of revenue pursuant to K.S.A. 75-5157, and amendments thereto; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503, and amendments thereto; special agents of the department of corrections; special investigators designated by the secretary of labor; and law enforcement officers appointed by the adjutant general pursuant to K.S.A. 48-204, and amendments thereto; railroad policemen appointed pursuant to K.S.A. 66-524, and amendments thereto; school security officers designated as school law enforcement officers pursuant to K.S.A. 72-6146, and amendments thereto; the manager and employees of the horsethief reservoir benefit district pursuant to K.S.A. 82a-2212, and amendments thereto; and the director of the Kansas commission on peace officers' standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer. "Police officer" or "law enforcement officer" includes any officer appointed or elected on a provisional basis.

~~(2)~~(3) "Police officer" or "law enforcement officer" does not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the secretary of corrections other than a special agent; any employee of the secretary for children and families; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and

is not authorized to carry firearms when discharging the duties of such person's office or employment.

(h) "Full-time" means employment requiring at least 1,000 hours of law enforcement related work per year.

(i) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of law enforcement related work per year.

(j) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or K.S.A. 21-5414, and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element 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" as defined in K.S.A. 21-5414, and amendments thereto, at the time of the offense.

(k) "Auxiliary personnel" means members of organized nonsalaried groups who operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

(l) "Active law enforcement certificate" means a certificate that attests to the qualification of a person to perform the duties of a law enforcement officer and that has not been suspended or revoked by action of the Kansas commission on peace officers' standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

(m) "Applicant" means a person seeking certification as an officer under this act.

Sec. 70. K.S.A. 74-5605 is hereby amended to read as follows: 74-5605. (a) Every applicant for certification shall be*:*

(1) An employee of a state, county or city law enforcement agency, a municipal university police officer, a railroad policeman appointed pursuant to K.S.A. 66-524, and amendments thereto;

(2) an employee of the tribal law enforcement agency of an Indian nation that has entered into a tribal-state gaming compact with this state;

(3) a manager or employee of the horsethief reservoir benefit district pursuant to K.S.A. 82a-2212, and amendments thereto; or

(4) a school security officer designated as a school law enforcement officer pursuant to K.S.A. 72-6146, and amendments thereto.

(b) Prior to admission to a course conducted at the training center or at a certified state or local law enforcement agency, the applicant's appointing authority or agency head shall furnish to the director of police training and to the commission a statement certifying that the applicant

has been found to meet the minimum requirements of certification established by this subsection. The commission may rely upon the statement of the appointing authority or agency head as evidence that the applicant meets the minimum requirements for certification to issue a provisional certification. Each applicant for certification shall meet the following minimum requirements:

(1) Be a United States citizen;

(2) have been fingerprinted *pursuant to section 1, and amendments thereto,* and a search of local, state and national fingerprint files made to determine whether the applicant has a criminal record;

(3) not have been convicted of a crime that would constitute a felony under the laws of this state, a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission;

(4) have:

(A) graduated from a high school accredited by the Kansas state board of education or the appropriate accrediting agency of another state jurisdiction;

(B) obtained a high school education from a nonaccredited private secondary school as defined in K.S.A. 72-4345, and amendments thereto; or

(C) obtained the equivalent of a high school education as defined by rules and regulations of the commission;

(5) be of good moral character sufficient to warrant the public trust in the applicant as a police officer or law enforcement officer;

(6) have completed an assessment, including psychological testing approved by the commission, to determine that the applicant does not have a mental or personality disorder that would adversely affect the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment;

(7) be free of any physical or mental condition which adversely affects the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgment; and

(8) be at least 21 years of age.

(c) The commission may deny a provisional or other certification upon a finding that the applicant has engaged in conduct for which a certificate may be revoked, suspended or otherwise disciplined as provided in K.S.A. 74-5616, and amendments thereto. When it appears that grounds for denial of a certification exist under this subsection, after a conditional offer of employment has been made to an applicant seeking appointment as a police officer or law enforcement officer, the applicant's appointing authority or agency head may request an order from the commission to determine whether a provisional certification will be issued to that applicant.

(d) As used in this section, "conviction" includes rendering of judgment by a military court martial pursuant to the uniform code of military justice, by a court of the United States or by a court of competent jurisdiction in any state, whether or not expunged; and any diversion or deferred judgment agreement entered into for a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations by the commission and any diversion agreement or deferred judgment entered into on or after July 1, 1995, for a felony.

Sec. 71. K.S.A. 74-5607 is hereby amended to read as follows: 74-5607. (a) In addition to other powers and duties prescribed by law, the commission shall adopt, in accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, rules and regulations necessary to carry out the provisions of and to administer the Kansas law enforcement training act. The commission may also adopt such rules of procedure or guidance documents as are necessary for conducting the business of the commission.

(b) The commission or a designated committee or member of the commission may conduct investigations and proceedings necessary to carry out the provisions of the Kansas law enforcement training act. In all investigations, hearings or other matters pending before the commission, the commission or any person acting as a presiding officer for the commission shall have the power to:

(1) Administer oaths and take testimony;

(2) issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued on behalf of the commission, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully questioned, the district court of any county, on application of a member of the commission, may require compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the commission by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the commission or by a person or persons designated by the chairperson;

(3) enter into contracts necessary to administer the provisions of the Kansas law enforcement training act and the certification of law enforcement officers; and

(4) assess the costs of such matters pending before the commission under this section against the governmental entity employing the police officer or law enforcement officer.

(c) Members of the commission attending meetings of the commission, or attending a committee meeting authorized by the commission, shall be paid amounts provided for in ~~subsection (e) of~~ K.S.A. 75-3223*(e)*, and amendments thereto. The commission shall be responsible for approving all expense vouchers of members.

(d) The commission shall meet at least once each year at the training center and may hold other meetings whenever they are called by the chairperson.

(e) The commission shall adopt the rules and regulations that are necessary to ensure that law enforcement officers are adequately trained and to enforce the provisions of the Kansas law enforcement training act. Such rules and regulations shall include, but are not limited to, the establishment of a course of fire as a standard qualification for active law enforcement officers to carry firearms that may also be used for qualified retired officers to carry firearms pursuant to federal law. The director of police training shall provide qualification opportunities for qualified retired officers at the times and places the director determines to be necessary. The training center shall charge and collect a fee from retired state, local and federal officers for the qualification opportunities, but these fees shall be limited to the actual costs of presenting the standard qualifications course.

(f) ~~On and after July 1, 2012,~~ The commission ~~shall~~ *may* require fingerprinting of each applicant for certification under the Kansas law enforcement training act *in accordance with section 2, and amendments thereto*, and may require fingerprinting of a person who has received a certificate under the Kansas law enforcement training act ~~prior to July 1, 2012,~~ if such person's conduct is investigated pursuant to this section. The commission shall appoint an employee of the commission whose official duty includes seeking and maintaining confidential information as provided by this subsection. ~~The appointed employee shall submit fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purpose of verifying the identity of such applicant or certificate holder and for obtaining records of that person's criminal arrests and convictions. Upon the request of the appointed employee, the Kansas bureau of investigation and other criminal justice agencies shall provide to the appointed employee all background investigation information including criminal history record information, arrest and nonconviction data and criminal intelligence information. Such information, other~~

~~than conviction data, shall be confidential and shall not be disclosed by the appointed employee, except for a purpose stated in this section. In addition to any other penalty provided by law, unauthorized disclosure of such information shall be grounds for removal from office or termination of employment.~~

Sec. 72. K.S.A. 74-7511 is hereby amended to read as follows: 74-7511. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the behavioral sciences regulatory board may require a person to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or another jurisdiction. The behavioral sciences regulatory board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The behavioral sciences regulatory board may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.~~

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

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

(c) As used in this section, "licensee" means a person who has submitted an original application for or an application for reinstatement of any license, registration, permit or certificate or a person who currently holds a license, registration, permit or certificate issued by the behavioral sciences regulatory board.

Sec. 73. K.S.A. 2023 Supp. 74-8702 is hereby amended to read as follows: 74-8702. As used in the Kansas lottery act, unless the context otherwise requires:

(a) "Ancillary lottery gaming facility operations" means additional non-lottery facility game products and services not owned and operated by the state that may be included in the overall development associated with the lottery gaming facility. Such operations may include, but are not limited to, restaurants, hotels, motels, museums or entertainment facilities.

(b) "Auto racetrack facility" means the same as defined in K.S.A. 12-17,162, and amendments thereto, and that is located in Wyandotte county with a minimum investment of $50,000,000 and is in operation on July 1, 2022.

(c) "Commission" means the Kansas lottery commission.

(d) (1) "Electronic gaming machine" means any electronic, electromechanical, video or computerized device, contrivance or machine authorized by the Kansas lottery that, upon insertion of cash, tokens, electronic cards or any consideration, is available to play, operate or simulate the play of a game authorized by the Kansas lottery pursuant to the Kansas expanded lottery act, including, but not limited to, bingo, poker, blackjack, keno and slot machines, and that may deliver or entitle the player operating the machine to receive cash, tokens, merchandise or credits that may be redeemed for cash. Electronic gaming machines may use bill validators and may be single-position reel-type, single or multi-game video and single-position multi-game video electronic game, including, but not limited to, poker, blackjack and slot machines. Electronic gaming machines shall be directly linked to a central computer at a location determined by the executive director for purposes of security, monitoring and auditing.

(2) "Electronic gaming machine" does not mean an historical horse race machine, as defined in K.S.A. 74-8802, and amendments thereto.

(e) *"Employee" means a person who has applied for a position of employment or is currently employed by the lottery in a position of employment within a sensitive area of the lottery.*

(f) "Executive director" means the executive director of the Kansas lottery.

~~(f)~~*(g)* "Gaming equipment" means any electric, electronic, computerized or electromechanical machine, mechanism, supply or device or any other equipment, that is: (1) Unique to the Kansas lottery and used pursuant to the Kansas lottery act; (2) integral to the operation of an electronic gaming machine or lottery facility game; and (3) affects the results of an electronic gaming machine or lottery facility game by determining win or loss.

~~(g)~~*(h)* "Gaming zone" means: (1) The northeast Kansas gaming zone, which consists of Wyandotte county; (2) the southeast Kansas gaming

zone, which consists of Crawford and Cherokee counties; (3) the south central Kansas gaming zone, which consists of Sedgwick and Sumner counties; and (4) the southwest Kansas gaming zone, which consists of Ford county.

~~(h)~~*(i)* "Gray machine" means any mechanical, electro-mechanical or electronic device, capable of being used for gambling, that is: (1) Not authorized by the Kansas lottery; (2) not linked to a lottery central computer system; (3) available to the public for play; or (4) capable of simulating a game played on an electronic gaming machine or any similar gambling game authorized pursuant to the Kansas expanded lottery act.

~~(i)~~*(j)* "Interactive sports wagering platform" means an integrated system of hardware, software and applications, including, but not limited to, mobile applications and servers, through which sports wagering may be made available to persons physically located within the state of Kansas at the time of submitting the wager to a sports wagering manager over the internet or wireless services as defined in K.S.A. 66-2019, and amendments thereto, including, but not limited to, through websites and mobile device applications.

~~(j)~~*(k)* (1) "Instant bingo vending machine" means a machine or electronic device that is purchased or leased by a licensee, as defined by K.S.A. 75-5173, and amendments thereto, from a distributor who has been issued a distributor registration certificate pursuant to K.S.A. 75-5184, and amendments thereto, or leased from the Kansas lottery in fulfillment of the Kansas lottery's obligations under an agreement between the Kansas lottery and a licensee entered into pursuant to K.S.A. 75-5189, and amendments thereto, and the sole purpose of which is to:

(A) Dispense a printed physical instant bingo ticket after a purchaser inserts cash or other form of consideration into the machine; and

(B) allow purchasers to manually check the winning status of the instant bingo ticket.

(2) "Instant bingo vending machine" shall not:

(A) Provide a visual or audio representation of a bingo card or an electronic gaming machine;

(B) visually or functionally have the same characteristics of an electronic instant bingo game or an electronic gaming machine;

(C) automatically determine or display the winning status of any dispensed instant bingo ticket;

(D) extend or arrange credit for the purchase of an instant bingo ticket;

(E) dispense any winnings;

(F) dispense any prize;

(G) dispense any evidence of a prize other than an instant bingo ticket;

(H) provide free instant bingo tickets or any other item that can be redeemed for cash; or

(I) dispense any other form of a prize to a purchaser.

All physical instant bingo tickets dispensed by an instant bingo vending machine shall be purchased by a licensee, as defined by K.S.A. 75-5173, and amendments thereto, from a registered distributor.

Not more than two instant bingo vending machines may be located on the premises of each licensee location.

~~(k)~~*(l)* "Kansas lottery" means the state agency created by this act to operate a lottery or lotteries pursuant to this act.

~~(l)~~*(m)* "Lottery" or "state lottery" means the lottery or lotteries operated pursuant to this act.

~~(m)~~*(n)* (1) "Lottery facility games" means any electronic gaming machines and any other games that are authorized to be conducted or operated at any licensed gaming facilities in the United States.

(2) "Lottery facility games" does not include sports wagering or historical horse race machines, as defined in K.S.A. 74-8802, and amendments thereto.

~~(n)~~*(o)* "Lottery gaming enterprise" means an entertainment enterprise that includes a lottery gaming facility authorized pursuant to the Kansas expanded lottery act and ancillary lottery gaming facility operations that have a coordinated business or marketing strategy. A lottery gaming enterprise shall be designed to attract to its lottery gaming facility consumers who reside outside the immediate area of such enterprise.

~~(o)~~*(p)* "Lottery gaming facility" means that portion of a building used for the purposes of operating, managing and maintaining lottery facility games.

~~(p)~~*(q)* "Lottery gaming facility expenses" means normal business expenses, as defined in the lottery gaming facility management contract, associated with the ownership and operation of a lottery gaming facility.

~~(q)~~*(r)* "Lottery gaming facility management contract" means a contract, subcontract or collateral agreement between the state and a lottery gaming facility manager for the management of a lottery gaming facility, the business of which is owned and operated by the Kansas lottery, negotiated and signed by the executive director on behalf of the state.

~~(r)~~*(s)* "Lottery gaming facility manager" means a corporation, limited liability company, resident Kansas American Indian tribe or other business entity authorized to construct and manage, or manage alone, pursuant to a lottery gaming facility management contract with the Kansas lottery, and on behalf of the state, a lottery gaming enterprise and lottery gaming facility.

~~(s)~~*(t)* "Lottery gaming facility revenues" means the total revenues from lottery facility games at a lottery gaming facility after all related priz-

es are paid. The term "lottery gaming facility revenues" does not include sports wagering revenues.

~~(t)~~*(u)* (1) "Lottery machine" means any machine or device that allows a purchaser to insert cash or other form of consideration and may deliver as the result of an element of chance, regardless of the skill required by the purchaser, a prize or evidence of a prize, including, but not limited to:

(A) Any machine or device in which the prize or evidence of a prize is determined by both chance and the purchaser's or purchasers' skill, including, but not limited to, any machine or device on which a lottery game or lottery games, such as poker or blackjack, are played; or

(B) any machine or device in which the prize or evidence of a prize is determined only by chance, including, but not limited to, any slot machine or bingo machine.

(2) "Lottery machine" shall not mean:

(A) Any food vending machine defined by K.S.A. 36-501, and amendments thereto;

(B) any nonprescription drug machine authorized under K.S.A. 65-650, and amendments thereto;

(C) any machine that dispenses only bottled or canned soft drinks, chewing gum, nuts or candies;

(D) any machine excluded from the definition of gambling devices under K.S.A. 21-4302(d), prior to its repeal, or K.S.A. 21-6403, and amendments thereto;

(E) any electronic gaming machine or lottery facility game operated in accordance with the provisions of the Kansas expanded lottery act;

(F) any lottery ticket vending machine; or

(G) any instant bingo vending machine.

~~(u)~~*(v)* "Lottery retailer" means any person with whom the Kansas lottery has contracted to sell lottery tickets or shares, or both, to the public.

~~(v)~~*(w)* (1) "Lottery ticket vending machine" means a machine or similar electronic device owned or leased by the Kansas lottery, the sole purposes of which are to:

(A) Dispense a printed physical ticket, such as a lottery ticket, a keno ticket, a pull tab ticket or a coupon, the coupon of which must be redeemed through something other than a lottery ticket vending machine, after a purchaser inserts cash or other form of consideration into the machine;

(B) allow purchasers to manually check the winning status of a Kansas lottery ticket; and

(C) display advertising, promotions and other information pertaining to the Kansas lottery.

(2) "Lottery ticket vending machine" shall not:

(A) Provide a visual or audio representation of an electronic gaming machine;

(B) visually or functionally have the same characteristics of an electronic gaming machine;

(C) automatically determine or display the winning status of any dispensed ticket;

(D) extend or arrange credit for the purchase of a ticket;

(E) dispense any winnings;

(F) dispense any prize;

(G) dispense any evidence of a prize other than the lottery ticket, keno ticket, pull tab ticket or any free Kansas lottery ticket received as a result of the purchase of another Kansas lottery ticket;

(H) provide free games or any other item that can be redeemed for cash; or

(I) dispense any other form of a prize to a purchaser.

Not more than two lottery ticket vending machines may be located at each Kansas lottery retailer selling location.

Lottery ticket vending machines may only dispense the printed physical lottery ticket, keno ticket or pull tab ticket, including any free Kansas lottery ticket received as a result of the purchase of another Kansas lottery ticket, and change from a purchase to the purchaser. Any winnings from a lottery ticket vending machine shall be redeemed only for cash or check by a lottery retailer or by cash, check or other prize from the office of the Kansas lottery.

~~(w)~~*(x)* (1) "Major procurement" means any gaming product or service, including, but not limited to, facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including materials, supplies, equipment and services common to the ordinary operations of state agencies.

(2) "Major procurement" shall not mean any product, service or other matter covered by or addressed in the Kansas expanded lottery act or a lottery gaming facility management contract or racetrack gaming facility management contract executed pursuant to the Kansas expanded lottery act.

~~(x)~~*(y)* "Marketing agreement" means an agreement entered into between a professional sports team or other marketing entity and a lottery gaming facility manager for the purposes described in K.S.A. 2023 Supp. 74-8784, and amendments thereto.

~~(y)~~*(z)* "Marketing entity" means:

(1) A corporation, limited liability company, partnership or other business entity registered to do business in this state; or

(2) a nonprofit fraternal or veterans organization.

~~(z)~~*(aa)* "Match-fixing" means to arrange or determine any action that occurs during a sporting event, including, but not limited to, any action resulting in the final outcome of such sporting event, for financial gain.

~~(aa)~~*(bb)* "Net electronic gaming machine income" means all cash or other consideration utilized to play an electronic gaming machine operated at a racetrack gaming facility, less all cash or other consideration paid out to winning players as prizes.

~~(bb)~~*(cc)* "Nonprofit fraternal organization" means any organization within this state that exists for the common benefit, brotherhood or other interests of its members and is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose within this state and has been determined by the executive director to be organized and operated as a bona fide fraternal organization and that has been exempted from the payment of federal income taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit fraternal organization by the executive director.

~~(cc)~~*(dd)* "Nonprofit veterans' organization" means any organization within this state or any branch, lodge or chapter of a national or state organization within this state, the membership of which consists exclusively of individuals who qualify for membership because they were or are members of the armed services or forces of the United States, or an auxiliary unit or society of such a nonprofit veterans' organization, the membership of which consists exclusively of individuals who were or are members of the armed services or forces of the United States, or are cadets, or are spouses, widows or widowers of individuals who were or are members of the armed services or forces of the United States, and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and has been determined by the executive director to be organized and operated as a bona fide veterans' organization and that has been exempted from the payment of federal income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal internal revenue code of 1986, as amended, or determined to be organized and operated as a bona fide nonprofit veterans' organization by the executive director.

~~(dd)~~*(ee)* "Organization licensee" means the same as defined in K.S.A. 74-8802, and amendments thereto.

~~(ee)~~*(ff)* "Parimutuel licensee" means a facility owner licensee or facility manager licensee under the Kansas parimutuel racing act.

~~(ff)~~*(gg)* "Parimutuel licensee location" means a racetrack facility, as defined in K.S.A. 74-8802, and amendments thereto, owned or managed by the parimutuel licensee. A parimutuel licensee location includes any existing structure at such racetrack facility or any structure that may be constructed on real estate where such racetrack facility is located.

~~(gg)~~*(hh)* "Person" means any natural person, association, limited liability company, corporation or partnership.

~~(hh)~~*(ii)* "Primary facility" means the stadium or arena where a professional sports team hosts competitive games in accordance with such team's league rules.

~~(ii)~~*(jj)* "Prize" means any prize paid directly by the Kansas lottery pursuant to the Kansas lottery act or the Kansas expanded lottery act or any rules and regulations adopted pursuant to either act.

~~(jj)~~*(kk)* "Professional sports team" means an athletic team, whose primary facility is located in Kansas, that operates at the major league level in the sport of baseball, basketball, football, ice hockey or soccer.

~~(kk)~~*(ll)* "Progressive electronic game" means a game played on an electronic gaming machine for which the payoff increases uniformly as the game is played and for which the jackpot, determined by application of a formula to the income of independent, local or interlinked electronic gaming machines, may be won.

~~(ll)~~*(mm)* "Racetrack gaming facility" means that portion of a parimutuel licensee location where electronic gaming machines are operated, managed and maintained.

~~(mm)~~*(nn)* "Racetrack gaming facility management contract" means an agreement between the Kansas lottery and a racetrack gaming facility manager, negotiated and signed by the executive director on behalf of the state, for placement of electronic gaming machines owned and operated by the state at a racetrack gaming facility.

~~(nn)~~*(oo)* "Racetrack gaming facility manager" means a parimutuel licensee specifically certified by the Kansas lottery to become a certified racetrack gaming facility manager and offer electronic gaming machines for play at the racetrack gaming facility.

~~(oo)~~*(pp)* "Returned ticket" means any ticket that was transferred to a lottery retailer, that was not sold by the lottery retailer and that was returned to the Kansas lottery for refund by issuance of a credit or otherwise.

~~(pp)~~*(qq)* "Share" means any intangible manifestation authorized by the Kansas lottery to prove participation in a lottery game, except as provided by the Kansas expanded lottery act.

~~(qq)~~*(rr)* "Sports governing body" means the organization that prescribes the final rules and enforces codes of conduct with respect to a sporting event and the participants in such event.

~~(rr)~~*(ss)* (1) "Sporting event" means any professional or collegiate sport or athletic event, motor race event or any other special event authorized by the commission that has not occurred at the time wagers are placed on such event.

(2) The term "sporting event" does not include:

(A) Any horse race that is subject to the provisions of the Kansas parimutuel racing act, K.S.A. 74-8801 et seq., and amendments thereto;

(B) any greyhound race; or

(C) any sporting or athletic event where a majority of the participants are less than 18 years of age.

~~(ss)~~*(tt)* (1) "Sports wagering" means placing a wager or bet on one or more sporting events, or any portion thereof, or on the individual performance statistics of athletes participating in a sporting event, or combination of sporting events, by any system or method of wagering at or through a lottery gaming facility, including through an interactive sports wagering platform. "Sports wagering" includes, but is not limited to, single game wagers, teaser wagers, parlays, over-under wagers, moneyline wagers, pools, exchange wagering, in-game wagers, in-play wagers, proposition wagers, straight wagers and such other wagers approved by the commission.

(2) The term "sports wagering" shall not include:

(A) Parimutuel wagering, as defined in K.S.A. 74-8802, and amendments thereto; or

(B) fantasy sports leagues, as defined in K.S.A. 21-6403, and amendments thereto.

~~(tt)~~*(uu)* "Sports wagering revenues" means wagering revenue generated from sports wagering that is an amount equal to the total wagers less any voided wagers, federal excise taxes, free plays or other promotional credits and any amounts paid as prizes.

~~(uu)~~*(vv)* "Sports wagering supplier" means a person providing goods, services, software or any other components necessary for the determination of the odds or the outcomes of any wager on a sporting event, directly or indirectly, to a lottery gaming facility manager, including data feeds and odds services, that is licensed under K.S.A. 2023 Supp. 74-8783, and amendments thereto.

~~(vv)~~*(ww)* "Ticket" means any tangible evidence issued by the Kansas lottery to prove participation in a lottery game, including a sports wager, other than a lottery facility game.

~~(ww)~~*(xx)* "Token" means a representative of value, of metal or other material, that is not legal tender, redeemable for cash only by the issuing lottery gaming facility manager or racetrack gaming facility manager and that is issued and sold by a lottery gaming facility manager or racetrack gaming facility manager for the sole purpose of playing an electronic gaming machine or lottery facility game.

~~(xx)~~*(yy)* "Vendor" means any person who has entered into a major procurement contract with the Kansas lottery.

~~(yy)~~*(zz)* "Video lottery machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game authorized by the commission, including, but not limited to, bingo, poker, black jack and keno, and which uses a video display and microprocessors and in which, by chance, the player may receive free games or credits that can be redeemed for cash.

~~(zz)~~*(aaa)* "Wager" or "bet" means a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement.

Sec. 74. K.S.A. 74-8704 is hereby amended to read as follows: 74-8704. (a) The executive director shall have the power to:

(1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.

(2) Appoint, subject to the Kansas civil service act and within the limitations of appropriations therefor, all other employees of the Kansas lottery, which employees shall be in the classified service unless otherwise specifically provided by this act.

(3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and services; and facilities as needed to operate the Kansas lottery, including, but not limited to, gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705, and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(5) Require lottery retailers to furnish proof of financial stability or furnish surety in an amount based upon the expected volume of sales of lottery tickets or shares.

(6) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder.

(7) Issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any lottery retailer, or to compel the appearance of any lottery retailer or employee of any lottery retailer, for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder. Subpoenas issued under the provisions of this subsection may be served upon natural persons and corporations in the manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(8) Administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition were in aid of a civil action in the district court.

(9) Require fingerprinting of employees ~~and such other persons who work in sensitive areas within the lottery as deemed appropriate by the director~~ *in accordance with section 2, and amendments thereto*. ~~The director may submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such employees and persons and obtaining records of their criminal arrests and convictions.~~

(b) The Kansas lottery shall not engage in on-site display advertising or promotion of the lottery at any amateur athletic or sporting event where the majority of participating athletes are under the age of 18, including, but not limited to, events under the jurisdiction and control of the Kansas state high school activities association.

Sec. 75. K.S.A. 74-8705 is hereby amended to read as follows: 74-8705. (a) Major procurement contracts shall be awarded in accordance with K.S.A. 75-3738 through 75-3744, and amendments thereto, or subsection (b), as determined by the director, except that:

(1) The contract or contracts for the initial lease of facilities for the Kansas lottery shall be awarded upon the evaluation and approval of the director, the secretary of administration and the director of architectural services;

(2) The commission shall designate certain major procurement contracts or portions thereof to be awarded, in accordance with rules and regulations of the commission, solely to minority business enterprises.

(b) *(1)* The director may award any major procurement contract by use of a procurement negotiating committee. Such committee shall be composed of:

~~(1)~~ *(A)* The executive director or a Kansas lottery employee designated by the executive director;

~~(2)~~ *(B)* the chairperson of the commission or a commission member designated by the chairperson; and

~~(3)~~ *(C)* the director of the division of purchases or an employee of such division designated by the director.

(2) Prior to negotiating a major procurement contract, the committee shall solicit bids or proposals thereon. The division of purchases shall provide staff support for the committee's solicitations. Upon receipt of bids or proposals, the committee may negotiate with one or more of the persons submitting such bids or proposals and select from among such persons the person to whom the contract is awarded. Such procurements shall be open and competitive and shall consider relevant factors, including security, competence, experience, timely performance and maximization of

net revenues to the state. If a procurement negotiating committee is utilized, the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, shall not apply. Meetings conducted by the procurement negotiating committee shall be exempt from the provisions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320c, and amendments thereto.

(c) *(1)* Before a major procurement contract is awarded, the executive director shall *fingerprint and* conduct a ~~background investigation~~ *state criminal history record check in accordance with section 3, and amendments thereto,* of:

~~(1)~~ *(A)* The vendor to whom the contract is to be awarded;

~~(2)~~ *(B)* all officers and directors of such vendor;

~~(3)~~ *(C)* all persons who own a 5% or more interest in such vendor;

~~(4)~~ *(D)* all persons who own a controlling interest in such vendor; and

~~(5)~~ *(E)* any subsidiary or other business in which such vendor owns a controlling interest.

(2) The vendor shall submit appropriate investigation authorizations to facilitate such investigation. The executive director may require, in accordance with rules and regulations of the commission, that a vendor submit any additional information considered appropriate to preserve the integrity and security of the lottery. In addition, the executive director may conduct a background investigation of any person having a beneficial interest in a vendor. The secretary of revenue, securities commissioner, attorney general and director of the Kansas bureau of investigation shall assist in any investigation pursuant to this subsection upon request of the executive director. Whenever the secretary of revenue, securities commissioner, attorney general or director of the Kansas bureau of investigation assists in such an investigation and incurs costs in addition to those attributable to the operations of the office or bureau, such additional costs shall be paid by the Kansas lottery. The furnishing of assistance in such an investigation shall be a transaction between the Kansas lottery and the respective officer and shall be settled in accordance with K.S.A. 75-5516, and amendments thereto.

(3) Upon the request of the chairperson, the Kansas bureau of investigation and other criminal justice agencies shall provide to the chairperson all background investigation information including criminal history record information, arrest and nonconviction data, criminal intelligence information and information relating to criminal and background investigations of a vendor to whom a major procurement contract is to be awarded *in accordance with section 2, and amendments thereto*. ~~Such information, other than conviction data, shall be confidential and shall not be disclosed, except as provided in this section. In addition to any other penalty provided by law, disclosure of such information shall be grounds for removal from office or termination of employment.~~

(d) All major procurement contracts shall be subject to approval of the commission.

(e) The executive director shall not agree to any renewal or extension of a major procurement contract unless such extension or renewal is awarded in the manner provided by this section.

Sec. 76. K.S.A. 74-8763 is hereby amended to read as follows: 74-8763. Each person subject to a background check pursuant to the Kansas expanded lottery act *and section 3, and amendments thereto,* shall be subject to a state and national criminal history records check ~~which~~ *that* conforms to applicable federal standards for the purpose of verifying the identity of the applicant and whether the person has been convicted of any crime that would disqualify the person from engaging in activities pursuant to this act. The executive director is authorized to use the information obtained from the national criminal history record check to determine the person's eligibility to engage in such activities.

Sec. 77. K.S.A. 74-8769 is hereby amended to read as follows: 74-8769. Each person subject to a background check pursuant to the Kansas expanded lottery act *and section 3, and amendments thereto,* shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the applicant and whether the person has been convicted of any crime that would disqualify the person from engaging in activities pursuant to this act. The executive director of the Kansas racing and gaming commission is authorized to use the information obtained from the national criminal history record check to determine the person's eligibility to engage in such activities.

Sec. 78. K.S.A. 2023 Supp. 74-8802 is hereby amended to read as follows: 74-8802. As used in the Kansas parimutuel racing act unless the context otherwise requires:

(a) "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds:

(1) A multiple of $.10, for parimutuel pools from races conducted in this state; and

(2) a multiple of such other number of cents as provided by law of the host jurisdiction, for interstate combined wagering pools.

(b) "Commission" means the Kansas racing and gaming commission created by this act.

(c) "Concessionaire licensee" means a person, partnership, corporation or association licensed by the commission to utilize a space or privilege within a racetrack facility to sell goods or services.

(d) "Contract" means an agreement, written or oral, between two or more persons, partnerships, corporations or associations, or any combination thereof that creates an obligation between the parties.

(e) "Crossover employment" means a situation in which an occupational licensee is concurrently employed at the same racing facility by an organization licensee and a facility owner licensee or facility manager licensee.

(f) "Dual racetrack facility" means a racetrack facility for the racing of both horses and greyhounds or two immediately adjacent racetrack facilities, owned by the same licensee, one for racing horses and one for racing greyhounds.

(g) *"Employee" means a person who has applied for a position of employment or is currently employed by the commission.*

(h) "Executive director" means the executive director of the commission.

~~(h)~~*(i)* "Facility manager licensee" means a person, partnership, corporation or association licensed by the commission and having a contract with an organization licensee to manage a racetrack facility located in Sedgwick county.

~~(i)~~*(j)* "Facility owner licensee" means a person, partnership, corporation or association, or the state of Kansas or any political subdivision thereof, licensed by the commission to construct or own a racetrack facility located in Sedgwick county. "Facility owner licensee" does not mean an organization licensee that owns the racetrack facility in which it conducts horse or greyhound racing.

~~(j)~~*(k)* "Fair association" means an association organized pursuant to K.S.A. 2-125 et seq., and amendments thereto or a nonprofit association determined by the commission to be otherwise organized to conduct fair activities pursuant to findings of fact entered by the commission in a license order.

~~(k)~~*(l)* "Financial interest" means an interest that could result directly or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity or activity or as a result of a salary, gratuity or other compensation or remuneration from any person.

~~(l)~~*(m)* "Greyhound" means any greyhound breed of dog properly registered with the national greyhound association of Abilene, Kansas.

~~(m)~~*(n)* "Historical horse race machine" means any electronic, electromechanical, video or computerized device, contrivance or machine authorized by the commission that, upon insertion of cash, tokens, electronic cards or any consideration, is available to accept wagers on and simulate the running of historical horse races, and that may deliver or entitle the patron operating the machine to receive cash, tokens, merchandise or credits that may be redeemed for cash. Historical horse race machines shall use historically accurate information of the horse race selected to determine the place of finish of each horse. No random number

generator or other algorithm shall be used for determining the results of an historical horse race. Historical horse race machines shall be directly linked to a central computer at a location determined by the commission for purposes of security, monitoring and auditing.

~~(n)~~*(o)* "Horsemen's association" means any association or corporation:

(1) All officers, directors, members and shareholders of which are licensed owners of horses or licensed trainers of horses, or both;

(2) applying for or has been issued a facility owner license authorizing ownership of Eureka Downs, Anthony Downs or a racetrack facility on or adjacent to premises used by a fair association to conduct fair activities; and

(3) none of the officers, directors, members or shareholders of which holds another facility owner license or is an officer, director, member or shareholder of another facility owner licensee.

~~(o)~~*(p)* "Horsemen's nonprofit organization" means any nonprofit organization:

(1) All officers, directors, members or shareholders of which are licensed owners of horses or licensed trainers of horses, or both; and

(2) applying for or has been issued an organization license authorizing the conduct of horse races at Eureka Downs, Anthony Downs or a racetrack facility on or adjacent to premises used by a fair association to conduct fair activities.

~~(p)~~*(q)* "Host facility" means the racetrack at which the race is run or, if the race is run in a jurisdiction that is not participating in the interstate combined wagering pool, the racetrack or other facility that is designated as the host facility.

~~(q)~~*(r)* "Host jurisdiction" means the jurisdiction where the host facility is located.

~~(r)~~*(s)* "Interstate combined wagering pool" means a parimutuel pool established in one jurisdiction that is combined with comparable parimutuel pools from one or more racing jurisdictions for the purpose of establishing the amount of money returned on a successful wager in the participating jurisdictions.

~~(s)~~*(t)* "Intertrack wagering" means wagering on a simulcast race at a licensed racetrack facility or at a facility that is licensed in its racing jurisdiction to conduct live races.

~~(t)~~*(u)* "Intrastate combined wagering pool" means a parimutuel pool that is combined with comparable parimutuel pools from one or more racetrack facilities for the purpose of establishing the amount of money returned on a successful wager at the participating racetrack facilities.

~~(u)~~*(v)* "Kansas-whelped greyhound" means a greyhound whelped and raised in Kansas for the first six months of its life.

~~(v)~~*(w)* *"Licensee" means a person who has submitted an application for licesure or currently holds a license issued by the commission.*

(x) "Minus pool" means a parimutuel pool in which, after deducting the takeout, not enough money remains in the pool to pay the legally prescribed minimum return to those placing winning wagers, and in which the organization licensee would be required to pay the remaining amount due.

~~(w)~~*(y)* "Nonprofit organization" means:

(1) A corporation that is incorporated in Kansas as a not-for-profit corporation pursuant to the Kansas general corporation code and the net earnings of which do not inure to the benefit of any shareholder, individual member or person; or

(2) a fair association.

~~(x)~~*(z)* "Occupation licensee" means a person licensed by the commission to perform an occupation or provide services that the commission has identified as requiring a license pursuant to this act.

~~(y)~~*(aa)* "Off-track wagering" means wagering on a simulcast race at a facility that is not licensed in its jurisdiction to conduct live races.

~~(z)~~*(bb)* "Organization licensee" means a nonprofit organization licensed by the commission to conduct races pursuant to this act and, if the license so provides, to construct or own a racetrack facility.

~~(aa)~~*(cc)* "Parimutuel pool" means the total money wagered by individuals on one or more horses or greyhounds in a particular horse or greyhound race to win, place or show, or combinations thereof, as established by the commission, and, except in the case of an interstate or intrastate combined wagering pool, held by the organization licensee pursuant to the parimutuel system of wagering. There is a separate parimutuel pool for win, for place, for show and for each of the other forms of betting provided for by the rules and regulations of the commission.

~~(bb)~~*(dd)* "Parimutuel wagering" means a form of wagering on the outcome of horse and greyhound races, including historical horse races conducted by an historical horse race machine, in which those who wager purchase tickets of various denominations on one or more horses or greyhounds and all wagers for each race are pooled and the winning ticket holders are paid prizes from such pool in amounts proportional to the total receipts in the pool.

~~(cc)~~*(ee)* "Race meeting" means one or more periods of racing days during a calendar year designated by the commission for which an organization licensee has been approved by the commission to hold live horse or greyhound races or simulcast horse races at which parimutuel wagering is conducted, including such additional time as designated by the commission for the conduct of official business before and after the races.

~~(dd)~~*(ff)* "Racetrack facility" means a racetrack within Kansas used for the racing of horses or greyhounds, or both, including the track surface, grandstands, clubhouse, all animal housing and handling areas, other areas in which a person may enter only upon payment of an admission fee

or upon presentation of authorized credentials and such additional areas as designated by the commission. The term "racetrack facility" includes a facility used for the display of and wagering on simulcast races and the operation of historical horse race machines without any live horse or greyhound races being conducted.

~~(ee)~~*(gg)* "Racing jurisdiction" or "jurisdiction" means a governmental authority that is responsible for the regulation of live or simulcast racing in its jurisdiction.

~~(ff)~~*(hh)* "Racing or wagering equipment or services licensee" means any person, partnership, corporation or association licensed by the commission to provide integral racing or wagering equipment or services, as designated by the commission, to an organization licensee.

~~(gg)~~*(ii)* "Recognized greyhound owners' group" means the duly recognized group elected in accordance with rules and regulations of the commission by a majority of the Kansas licensed greyhound owners at the racetrack facility voting in the election. The commission may designate an organization such as the national greyhound association of Abilene, Kansas, to conduct the election.

~~(hh)~~*(jj)* "Recognized horsemen's group" means the duly recognized group, representing the breeds of horses running at a racetrack facility, elected in accordance with rules and regulations of the commission by a majority of the licensed owners and trainers at the racetrack facility voting in the election. If the licensee does not have a recognized horsemen's group, the commission shall designate as the recognized horsemen's group one that serves another organization licensee, but not one that serves a fair association organization licensee.

~~(ii)~~*(kk)* "Simulcast" means a live audio-visual broadcast of an actual horse race at the time it is run.

~~(jj)~~*(ll)* "Takeout" means the total amount of money withheld from each parimutuel pool for the payment of purses, taxes and the share to be kept by the organization licensee. Takeout does not include the breakage. The balance of each pool less the breakage is distributed to the holders of winning parimutuel tickets.

Sec. 79. K.S.A. 74-8803 is hereby amended to read as follows: 74-8803. (a) There is hereby created the Kansas racing and gaming commission, consisting of five members who shall be 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 to the commission shall exercise any power, duty or function as a member of the commission until confirmed by the senate.

(b) Before appointing any person as a member of the commission, the governor shall cause the Kansas bureau of investigation to conduct a

criminal history record check and background investigation of the person *in accordance with section 3, and amendments thereto.*

(c) The members of the commission shall meet the following qualifications:

(1) Each member shall be a citizen of the United States and an actual resident of Kansas at the time of appointment and during such member's term of office with the commission;

(2) each member shall have been a resident of Kansas for a continuous period of not less than five years immediately preceding appointment to the commission; and

(3) no member shall have been convicted of a felony under the laws of any state or of the United States at any time prior to appointment or during such member's term of office with the commission.

(d) The governor shall make appointments to the commission in such a manner that:

(1) Not more than three members belong to the same political party at the time of appointment and during their terms of office with the commission; and

(2) subject to the provisions of K.S.A. 75-4315c, and amendments thereto each congressional district has at least one member residing in such district at the time of appointment.

(e) Except as provided by subsection (f), each member appointed before July 1, 1995, shall be appointed for a term of three years and until a successor is appointed and confirmed. Each member appointed on or after July 1, 1995, shall be appointed for a term of four years and until a successor is appointed and confirmed.

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

(g) A vacancy on the commission shall be filled for the unexpired term by appointment by the governor.

(h) The commission shall meet at such times and places within this state as the chairperson or a majority of the commission members determines. A majority of the members shall constitute a quorum for the conduct of commission business.

(i) The governor shall designate a member of the commission as chairperson of the commission, to serve in that capacity at the pleasure of the governor. The members of the commission annually shall elect a vice-chairperson and secretary from the membership of the commission.

(j) Members of the commission shall receive such compensation as determined by the governor, subject to the limitations of appropriations

therefor, and, when attending meetings of the commission, or a subcommittee meeting thereof approved by the commission, shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 80. K.S.A. 2023 Supp. 74-8804 is hereby amended to read as follows: 74-8804. (a) During live race meetings or simulcast racing operations, the commission and its designated employees may observe and inspect all racetrack facilities operated by licensees, all racetracks simulcasting races to racetrack facilities in Kansas and all historical horse race machines, including, but not limited to, all machines, equipment and facilities used for parimutuel wagering.

(b) Commission members and presiding officers may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was in aid of a civil action in the district court.

(c) The commission may examine, or cause to be examined by any agent or representative designated by the commission, any books, papers, records or memoranda of any licensee, or of any racetrack or business involved in simulcasting races to racetrack facilities in Kansas or operating historical horse race machines, for the purpose of ascertaining compliance with any provision of this act or any rule and regulation adopted hereunder.

(d) The commission may issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any licensee or officer, member, employee or agent of any licensee, or to compel the appearance of any licensee or officer, member, employee or agent of any licensee, or of any racetrack or business involved in simulcasting races to racetrack facilities in this state or operating historical horse race machines, for the purpose of ascertaining compliance with any of the provisions of this act or any rule and regulation adopted hereunder. Subpoenas issued pursuant to this subsection may be served upon individuals and corporations in the same manner provided in K.S.A. 60-304, and amendments thereto, for the service of process by any officer authorized to serve subpoenas in civil actions or by the commission or an agent or representative designated by the commission. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(e) The commission shall allocate equitably race meeting dates, racing days and hours to all organization licensees and assign such dates and hours so as to minimize conflicting dates and hours within the same geographic market area.

(f) The commission shall have the authority, after notice and an opportunity for hearing in accordance with rules and regulations adopted by the commission, to exclude, or cause to be expelled, from any race meeting or racetrack facility, or to prohibit a licensee from conducting business with any person:

(1) Who has violated the provisions of this act or any rule and regulation or order of the commission;

(2) who has been convicted of a violation of the racing or gambling laws of this or any other state or of the United States or has been adjudicated of committing as a juvenile an act which, if committed by an adult, would constitute such a violation; or

(3) whose presence, in the opinion of the commission, reflects adversely on the honesty and integrity of horse or greyhound racing or interferes with the orderly conduct of a race meeting.

(g) The commission shall review and approve all proposed construction and major renovations to racetrack facilities owned or leased by licensees.

(h) The commission shall review and approve all proposed contracts with racetracks or businesses involved in simulcasting races to racetrack facilities in Kansas or operating historical horse race machines.

(i) The commission may suspend a horse or greyhound from participation in races if such horse or greyhound has been involved in any violation of the provisions of this act or any rule and regulation or order of the commission.

(j) The commission, within 72 hours after any action taken by a steward or racing judge and upon appeal by any interested party or upon its own initiative, may overrule any decision of a steward or racing judge, other than a decision regarding disqualifications for interference during the running of a race, if the preponderance of evidence indicates that:

(1) The steward or racing judge mistakenly interpreted the law;

(2) new evidence of a convincing nature is produced; or

(3) the best interests of racing and the state may be better served.

A decision of the commission to overrule any decision of a steward or racing judge shall not change the distribution of parimutuel pools to the holders of winning tickets. A decision of the commission which would affect the distribution of purses in any race shall not result in a change in that distribution unless a written claim is submitted to the commission within 48 hours after completion of the contested race by one of the owners or trainers of a horse or greyhound that participated in such race and a preponderance of evidence clearly indicates to the commission that one or more of the grounds for protest, as provided for in rules and regulations of the commission, has been substantiated.

(k) The commission shall review and approve all proposed historical horse race machines and all proposed types of wagering to be conducted on such machines.

(l) The commission, after notice and a hearing in accordance with rules and regulations adopted by the commission, may impose a civil fine not exceeding $5,000 for each violation of any provision of this act, or any rule and regulation of the commission, for which no other penalty is provided.

(m) The commission shall adopt rules and regulations specifying and regulating:

(1) Those drugs and medications that may be administered, and possessed for administration, to a horse or greyhound within the confines of a racetrack facility; and

(2) that equipment for administering drugs or medications to horses or greyhounds that may be possessed within the confines of a racetrack facility.

(n) The commission may adopt rules and regulations providing for the testing of any licensees of the commission, and any officers, directors and employees thereof, to determine whether they are users of any controlled substances.

(o) The commission shall require fingerprinting of all persons necessary to verify qualification for employment by the commission or to verify qualification for any license, including a simulcasting license, issued pursuant to this act. The commission shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.

(p) The commission*, in accordance with section 2, and amendments thereto,* may receive from commission security personnel, the Kansas bureau of investigation or other criminal justice agencies, including, but not limited to, the federal bureau of investigation and the federal internal revenue service, such criminal history record information ~~(~~, including arrest and nonconviction data~~)~~, criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of ~~licensees of the commission, employees of the commission, applicants for employment by the commission, and applicants for licensure by the commission, including applicants for simulcasting licenses~~ *employees or licensees*. Upon the written request of the chairperson of the commission, the commission may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of employees ~~of and applicants for employment by the commission and determining qualifications of~~ *or* licensees ~~of and applicants for licensure by the commission. Such information, other than conviction data, shall be confidential and~~

~~shall not be disclosed except to members and employees of the commission as necessary to determine qualifications of such licensees, employees and applicants. Any other disclosure of such confidential information is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act~~.

(q) The commission, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting to receive and discuss information received by the commission pursuant to subsection (o) and to negotiate with licensees of or applicants for licensure by the commission regarding any such information.

(r) The commission may enter into agreements with the federal bureau of investigation, the federal internal revenue service, the Kansas attorney general or any state, federal or local agency as necessary to carry out the duties of the commission under this act.

(s) The commission shall adopt such rules and regulations as necessary to implement and enforce the provisions of this act.

Sec. 81. K.S.A. 74-8805 is hereby amended to read as follows: 74-8805. (a) (1) The governor shall appoint, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto, an executive director of the commission, to serve at the pleasure of the governor and under the direction and supervision of the commission. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as executive director shall exercise any power, duty or function as executive director until confirmed by the senate. Before appointing any person as executive director, the governor shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The executive director shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the executive director's assigned duties; (C) receive such compensation as determined by the governor, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment by the commission; (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) have familiarity with the horse and dog racing industries sufficient to fulfill the duties of the office of executive director.

(3) The executive director shall: (A) Recommend to the commission the number and qualifications of employees necessary to implement and enforce the provisions of this act; (B) employ persons for those positions approved by the commission, subject to the limitations of appropriations therefor; and (C) perform such other duties as directed by the commission.

(b) (1) The executive director shall appoint an inspector of parimutuels to serve at the pleasure of the executive director. Before appointing any person as inspector of parimutuels, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The inspector of parimutuels shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the inspector's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as inspector of parimutuels; (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) be a certified public accountant with at least three years of auditing experience.

(3) The inspector of parimutuels shall: (A) Inspect and audit the conduct of parimutuel wagering by organization licensees, including the equipment and facilities used and procedures followed; (B) train and supervise such personnel as employed by the executive director to assist with such duties; and (C) perform such other duties as directed by the executive director.

(c) (1) The executive director shall appoint a director of security to serve at the pleasure of the executive director. Before appointing any person as director of security, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person *in accordance with section 3, and amendments thereto*.

(2) The director of security shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the security director's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as director of security; (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) be a professional law enforcement officer with a minimum of five years' experience in the field of law enforcement and at least a bachelor's degree in law enforcement administration, law, criminology or a related science or, in lieu thereof, a minimum of 10 years' experience in the field of law enforcement.

(3) The director of security shall: (A) Conduct investigations relating to compliance with the provisions of this act and rules and regulations of the commission; (B) recommend proper security measures to organization licensees; (C) train and supervise such personnel as employed by the

executive director to assist with such duties; and (D) perform such other duties as directed by the executive director.

(d) (1) The executive director may appoint a director of racing operations to serve at the pleasure of the executive director. Before appointing any person as director of racing operations, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The director of racing operations shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the director's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as director of racing operations; (E) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission; and (F) have a minimum of five years' experience in racing operations.

(3) The director of racing operations shall: (A) Supervise racing operations, including stewards and racing judges; (B) be responsible for training and education of stewards and racing judges; (C) advise the commission on necessary or desirable changes in rules and regulations relating to conduct of races; (D) train and supervise such personnel as employed by the executive director to assist with such duties; and (E) perform such other duties as directed by the executive director.

(e) The commission may appoint an advisory committee of persons knowledgeable in the horse and greyhound breeding and racing industries to provide information and recommendations to the commission regarding the administration of this act. Members of such advisory committee shall serve without compensation or reimbursement of expenses.

(f) Except as otherwise provided by this act, all employees of the commission shall be in the classified service under the Kansas civil service act.

(g) No employee of the commission shall have been convicted of a felony under the laws of any state or of the United States prior to or during employment by the commission. Before employing any person, the commission shall cause a criminal history record check of the person to be conducted.

(h) The commission shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of a person before employing the person in any of the following positions:

(1) Deputy director;

(2) accountant;

(3) computer systems analyst;

(4) legal assistant;

(5) auditor;

(6) racing judge;
(7) steward;
(8) enforcement agent;
(9) office supervisor;
(10) human resource manager;
(11) office specialist; or
(12) any other sensitive position, as determined by the commission.

Sec. 82. K.S.A. 74-8806 is hereby amended to read as follows: 74-8806. (a) The commission shall employ an animal health officer and such assistant animal health officers as needed to serve at the pleasure of the commission. Before employing any person as the animal health officer, the commission shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person *in accordance with section 3, and amendments thereto*.

(b) The animal health officer and assistant animal health officers shall:

(1) Be doctors of veterinary medicine;

(2) be in the unclassified service under the Kansas civil service act;

(3) receive such compensation as determined by the commission, subject to the limitations of appropriations therefor; and

(4) while employed by the commission, devote full time to the duties of the office.

(c) The animal health officer shall:

(1) Supervise the formulation, administration and evaluation of all medical tests the commission's rules and regulations require or authorize;

(2) advise the commission on all aspects of veterinary medicine relating to its powers and duties;

(3) supervise all personnel involved in conducting physical examinations and medical testing of racing animals, as directed by the executive director; and

(4) perform such other duties as directed by the commission.

(d) The assistant animal health officers shall:

(1) Conduct physical examinations and medical tests of racing animals as prescribed by the commission;

(2) administer emergency treatment of racing animals at race meetings as authorized by the owners of such animals or their agents; and

(3) perform such other duties as directed by the commission.

(e) The animal health officer or an assistant animal health officer may possess and administer drugs and medications to horses and greyhounds within a racetrack facility as authorized by rules and regulations of the commission.

(f) The commission may require an organization licensee to reimburse the commission for services performed by assistant animal health officers at race meetings conducted by the organization licensee.

(g) The commission may obtain medical services as required by contract with an institution which teaches animal health sciences within the state.

(h) The commission shall contract with one or more laboratory facilities for the analysis of samples taken for the purpose of enforcing compliance with K.S.A. 74-8811, and amendments thereto. In entering into any contract under this subsection, the commission shall give preference to laboratory facilities located in this state.

Sec. 83. K.S.A. 74-9802 is hereby amended to read as follows: 74-9802. As used in the tribal gaming oversight act:

(a) "Class III gaming" means all tribal gaming activities defined as class III gaming by the Indian gaming regulatory act (25 U.S.C. 2701 et seq.), as in effect on the effective date of this act.

(b) *"Employee" means a person who has applied for a position of employment or is currently employed by the state gaming agency.*

(c) "Executive director" means the executive director of the state gaming agency.

~~(c)~~*(d) "Licensee" means a person who has submitted an application for licesure or currently holds a license in tribal gaming issued pursuant to a tribal-state gaming compact.*

(e) "Tribal gaming" means any class III gaming conducted pursuant to a tribal-state gaming compact. "Tribal gaming" does not include games on video lottery machines, as defined by K.S.A. 74-8702, and amendments thereto, that the Kansas lottery is prohibited from conducting under K.S.A. 74-8704, and amendments thereto.

~~(d)~~*(f)* "Tribal gaming commission" means a commission created by a native American tribe in accordance with a tribal-state gaming compact.

~~(e)~~*(g)* "Tribal gaming facility" means a facility where tribal gaming is conducted or operated.

~~(f)~~*(h)* "Tribal-state gaming compact" means a compact entered into between the state of Kansas and the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the Prairie Band Potawatomi Nation in Kansas or the Sac and Fox Nation of Missouri in Kansas and Nebraska with respect to the tribe's authority to engage in class III gaming on the tribe's reservation property in the state of Kansas.

Sec. 84. K.S.A. 74-9804 is hereby amended to read as follows: 74-9804. (a) (1) The governor shall appoint, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto, an executive director of the state gaming agency, to serve at the pleasure of the governor. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as executive director shall exercise any power, duty or function as executive director until confirmed by the senate.

Before appointing any person as executive director, the governor shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person *in accordance with section 3, and amendments thereto*.

(2) The executive director shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the executive director's assigned duties; (C) be a citizen of the United States and an actual resident of Kansas during employment as executive director; (D) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment; and (E) have familiarity with gaming industries sufficient to fulfill the duties of the office of executive director.

(3) The executive director shall: (A) Determine, subject to the approval of the Kansas racing and gaming commission, the number and qualifications of employees necessary to implement and enforce the provisions of tribal-state gaming compacts and the provisions of the tribal gaming oversight act; (B) employ persons for those positions; and (C) perform such other duties as required by tribal-state gaming compacts.

(b) (1) The executive director may appoint a director of enforcement and compliance to serve at the pleasure of the executive director. Before appointing any person as director of enforcement and compliance, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The director of enforcement and compliance shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the director's assigned duties; (C) receive such compensation as determined by the executive director, subject to the limitations of appropriations therefor; (D) be a citizen of the United States and an actual resident of Kansas during employment as director of enforcement and compliance; (E) not have been convicted of a felony under the laws of any state or of the United States prior to and during employment as director of compliance; and (F) have been a professional law enforcement officer with a minimum of five years' experience in the field of law enforcement and at least a bachelor's degree in law enforcement administration, law, criminology or a related science or, in lieu thereof, a minimum of 10 years' experience in the field of law enforcement.

(3) The director of enforcement and compliance shall: (A) Be vested with law enforcement authority;

(B) conduct investigations relating to compliance with the provisions of tribal-state gaming compacts and the provisions of the tribal gaming oversight act;

(C) recommend proper compliance measures to tribal gaming commissions;

(D) train and supervise such personnel as employed by the executive director to assist with such duties; and

(E) perform such other duties as directed by the executive director.

(c) (1) The executive director may appoint enforcement agents. Before appointing any person as an enforcement agent, the executive director shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) Each enforcement agent shall: (A) Be vested with law enforcement authority;

(B) be in the classified service under the Kansas civil service act;

(C) not have been convicted of a felony under the laws of any state or of the United States prior to or during employment as enforcement agent; and

(D) be a professional law enforcement officer with a minimum of two years' experience in the field of law enforcement or, in lieu thereof, a bachelor's degree from an accredited university or college.

(3) Enforcement agents shall: (A) Conduct investigations relating to compliance with the provisions of tribal-state gaming compacts or the provisions of the tribal gaming oversight act; and (B) perform such other duties as directed by the executive director or the director of enforcement and compliance.

Sec. 85. K.S.A. 74-9805 is hereby amended to read as follows: 74-9805. (a) The state gaming agency shall be responsible for oversight of class III gaming conducted pursuant to tribal-state compacts and, as such, shall monitor compliance with tribal-state gaming compacts and perform the duties of the state gaming agency as provided by tribal-state gaming compacts.

(b) The state gaming agency may examine and inspect all tribal gaming facilities and facilities linked to Kansas tribal gaming facilities for gaming, including but not limited to all machines and equipment used for tribal gaming.

(c) The state gaming agency may examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records, electronic records, computer records or surveillance and security tapes and logs of any tribal gaming facility in accordance with tribal-state gaming compacts.

(d) The executive director may issue subpoenas to compel access to or for the production of any books, papers, records, electronic records, computer records or surveillance and security tapes and logs in the custody or control of a tribal gaming facility or any officer, employee or agent of a tribal gaming facility, or to compel the appearance of any officer, employee or agent of a tribal gaming facility, for the purpose of ascertaining compliance with any of the provisions of a tribal-state gaming compact or

the tribal gaming oversight act. Subpoenas issued pursuant to this subsection may be served upon individuals and corporations in the same manner provided in K.S.A. 60-304, and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to any court of competent jurisdiction.

(e) The state gaming agency may institute the dispute resolution procedure, in accordance with a tribal-state gaming compact, to ensure production of the documents required by the tribal-state gaming compact and to ensure compliance with all provisions of the compact.

(f) The state gaming agency shall monitor, examine and inspect tribal gaming to ensure that tribal gaming is conducted in compliance with tribal-state gaming compacts.

(g) The state gaming agency shall review all licensing and disciplinary actions taken by tribal gaming commissions or any party involved in the tribal gaming and assess if the action complies with the terms of the applicable tribal-state gaming compact.

(h) The executive director, or a designated employee, shall report any substantial noncompliance with a tribal-state gaming compact to the governor.

(i) The state gaming agency may negotiate a resolution between any tribe conducting or operating tribal gaming and any local or county governmental entity regarding the allocation or payment of additional expenses or costs incurred by the governmental entity as a result of tribal gaming, as provided by the applicable tribal-state gaming compacts.

(j) The state gaming agency may adopt background investigation and fingerprinting policies or procedures in accordance with the terms of tribal-state gaming compacts.

(k) The state gaming agency shall perform all functions and duties required to comply with and ensure tribal compliance with tribal-state gaming compacts.

(l) The state gaming agency shall require fingerprinting of all ~~persons necessary to verify qualifications for employment by the state gaming agency or to verify qualification for any license issued pursuant to a tribal-state gaming compact~~ *employees or licensees*. The state gaming agency shall submit such fingerprints to the Kansas bureau of investigation ~~and to the federal bureau of investigation~~ *in accordance with section 2, and amendments thereto,* for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.

(m) (1) ~~The state gaming agency may receive from the Kansas bureau of investigation or other criminal justice agencies, including but~~

~~not limited to the federal bureau of investigation and the federal internal revenue service, such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of employees of and applicants for employment by the state gaming agency and determining qualifications of licensees and applicants for licensure in tribal gaming. Upon the written request of the executive director, the state gaming agency may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of employees of and applicants for employment by the state gaming agency and determining qualifications of licensees of and applicants for licensure in tribal gaming.~~

~~(2)~~ The state gaming agency may disclose information received pursuant to subsection ~~(m)(1)~~ *(l)* to a tribal gaming commission as necessary for the purpose of determining qualifications of employees of or applicants for employment by such tribal gaming commission or qualifications of licensees or applicants for licensure by such tribal gaming commission.

~~(3)~~*(2)* Any information, other than conviction data, received by the state gaming agency pursuant to subsection ~~(m)(1)~~ *(l)* or by a tribal gaming commission pursuant to *this* subsection ~~(m)(2)~~ shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission as necessary for the purposes specified by ~~subsections (m)(1) and (m)(2)~~ *subsection (l) and this subsection*. ~~Any other disclosure of such confidential information is a class A nonperson misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued by the tribal gaming commission.~~

(n) The executive director may adopt rules and regulations to implement, administer and enforce the provisions of the tribal gaming oversight act.

Sec. 86. K.S.A. 75-712 is hereby amended to read as follows: 75-712. (a) It is the duty of the members of the bureau to make full and complete investigations at the direction of the attorney general. Each member of the bureau shall possess all powers and privileges which are now or may be hereafter given to the sheriffs of Kansas.

(b) (1) The bureau shall acquire, collect, classify and preserve criminal identification and other crime records, and may exchange such criminal identification records with the duly authorized officials of governmental agencies, of states, cities and penal institutions.

(2) The bureau shall make available to the governor's domestic violence fatality review board crime record information related to domestic

violence, including, but not limited to, type of offense, type of victim and victim relationship to offender, as found on the Kansas standard offense report. Such crime record information shall be made available only in a manner that does not identify individual offenders or victims.

(c) For purposes of carrying out the powers and duties of the bureau, the director may request and accept grants or donations from any person, firm, association or corporation or from the federal government or any federal agency and may enter into contracts or other transactions with any federal agency in connection therewith.

(d) *(1)* The bureau shall conduct background investigations of:

~~(1)~~ *(A)* Appointees to positions which are subject to confirmation by the senate of the state of Kansas; and

~~(2)~~ *(B)* at the direction of the governor, all judicial appointments.

(2) The bureau shall require the appointee to be fingerprinted *in accordance with section 2, and amendments thereto*. ~~The fingerprints shall be submitted to the bureau and to the federal bureau of investigation for the identification of the appointee and to obtain criminal history record information, including arrest and nonconviction data. Background reports may include criminal intelligence information and information relating to criminal and background investigations. Except as provided by this subsection, information received pursuant to this subsection shall be confidential and shall not be disclosed except to the appointing authority or as provided by K.S.A. 75-4315d, and amendments thereto.~~ If the appointing authority is the governor, information received pursuant to this subsection also may be disclosed to the governor's staff as necessary to determine the appointee's qualifications.

(e) Reports of all investigations made by the members of the bureau shall be made to the attorney general of Kansas.

Sec. 87. K.S.A. 75-7b01 is hereby amended to read as follows: 75-7b01. As used in this act:

(a) *"Applicant" means a person who has submitted an application for licensure as a private detective or private detective agency pursuant to this act or a person who has submitted an application to become certified to train private detectives in the handling of firearms and the lawful use of force.*

(b) "Detective business" means the furnishing of, making of or agreeing to make any investigation for the purpose of obtaining information with reference to:

(1) Crime or wrongs done or threatened against the United States or any state or territory of the United States, or any political subdivision thereof when furnished or made by persons other than law enforcement officers;

(2) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity,

movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person;

(3) the location, disposition or recovery of lost or stolen property;

(4) the cause or responsibility for fires, libels, losses, frauds, accidents or damage or injury to persons or to property; or

(5) securing evidence to be used before any court, board, officer or investigating committee.

~~(b)~~*(c)* "Private detective" means any person who, for any consideration whatsoever, engages in detective business.

~~(c)~~*(d)* "Private detective agency" means a person who regularly employs any other person, other than an organization, to engage in detective business.

~~(d)~~*(e)* "Private patrol operator" means a person who, for any consideration whatsoever, agrees to furnish or furnishes a watchman, guard, patrolman or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind, or performs the service of such watchman, guard, patrolman or other person for any such purposes.

~~(e)~~*(f)* "Law enforcement officer" means a law enforcement officer as defined in K.S.A. 21-5111, and amendments thereto.

~~(f)~~*(g)* "Organization" means a corporation, trust, estate, partnership, cooperative or association.

~~(g)~~*(h)* "Person" means an individual or organization.

~~(h)~~*(i)* "Firearm permit" means a permit for the limited authority to carry a firearm concealed on or about the person by one licensed as a private detective.

~~(i)~~*(j)* "Firearm" means:

(1) A pistol or revolver which is designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition; or

(2) any other weapon which will or is designed to expel a projectile by the action of an explosive and which is designed to be fired by the use of a single hand.

~~(j)~~*(k)* "Client" means any person who engages the services of a private detective.

~~(k)~~*(l)* "Dishonesty or fraud" means, in addition to other acts not specifically enumerated herein:

(1) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business;

(2) using illegal means in the collection or attempted collection of a debt or obligation;

(3) manufacturing or producing any false evidence; and

(4) acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of the licensee's employment by such client or former client.

Sec. 88. K.S.A. 75-7b04 is hereby amended to read as follows: 75-7b04. (a) Every person desiring to be licensed in Kansas as a private detective or private detective agency shall make application therefor to the attorney general. An application for a license under this act shall be on a form prescribed by the attorney general and accompanied by the required application fee. An application shall be verified and shall include:

(1) The full name and business address of the applicant;

(2) the name under which the applicant intends to do business;

(3) a statement as to the general nature of the business in which the applicant intends to engage;

(4) a statement as to the classification or classifications under which the applicant desires to be qualified;

(5) if the applicant is an organization, the full name and residence address of each of its partners, officers, directors or associates;

(6) two photographs of the applicant taken within 30 days before the date of application, of a type prescribed by the attorney general, and two classifiable sets of the applicant's fingerprints one of which shall be submitted to the ~~federal bureau of investigation for a fingerprint check~~ *Kansas bureau of investigation* for ~~any~~ *a state and national* criminal history ~~of the applicant~~ *record check in accordance with section 2, and amendments thereto*;

(7) a statement of the applicant's employment history; and

(8) such other information, evidence, statements or documents as may be required by the attorney general.

(b) The application shall be accompanied by a certificate of reference signed by five or more reputable persons who have known the applicant for a period of at least 5 years. The certificate of reference shall be verified and acknowledged by such persons before an officer authorized to take oaths and acknowledgment of deeds.

Each person signing the certificate of reference shall subscribe and affirm as true, under the penalties of perjury, that:

(1) The person has known the applicant personally for a period of at least five years prior to the filing of the application. The attorney general may lessen such period if the applicant has been discharged honorably from the military service of the United States within the six-year period immediately preceding the date the application is submitted;

(2) the person has read such application and believes each of the statements made therein to be true;

(3) the applicant is honest, of good character and competent and not related or connected by blood or marriage to such person.

(c) Before an application for a license may be granted, the applicant or, if the applicant is an organization, all of the officers, directors, partners or associates shall:

(1) Be at least 21 years of age;

(2) be a citizen of the United States;

(3) be of good moral character; and

(4) comply with such other qualifications as the attorney general adopts by rules and regulations.

(d) In accordance with the summary proceedings provisions of the Kansas administrative procedure act, the attorney general may deny a license if the applicant has:

(1) Committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this act;

(2) committed any act constituting dishonesty or fraud;

(3) a bad moral character or a bad reputation for truth, honesty, and integrity;

(4) been convicted of a felony or, within 10 years immediately prior to the date of application, been convicted of any crime involving moral turpitude, dishonesty, vehicular homicide, assault, battery, assault of a law enforcement officer, misdemeanor battery against a law enforcement officer, criminal restraint, sexual battery, endangering a child, intimidation of a witness or victim or illegally using, carrying, or possessing a dangerous weapon;

(5) been refused a license under this act or had a license suspended or revoked in this state or in any other jurisdiction or had a license censured, limited or conditioned two or more times in this state or in any other jurisdiction;

(6) been an officer, director, partner or associate of any person who has been refused a license under this act or whose license has been suspended or revoked in this state or in any other jurisdiction or had a license censured, limited or conditioned two or more times in this state or in any other jurisdiction;

(7) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by this act; or

(8) knowingly made any false statement in the application.

(e) The attorney general may charge a fee for initial application forms and materials in an amount fixed by the attorney general pursuant to K.S.A. 75-7b22, and amendments thereto. Such fee shall be credited against the application fee of any person who subsequently submits an application.

Sec. 89. K.S.A. 75-7b21 is hereby amended to read as follows: 75-7b21. (a) The attorney general shall certify persons who are qualified to

train private detectives in the handling of firearms and the lawful use of force.

(b) In order to be certified as a trainer under this section, an applicant shall:

(1) Be 21 or more years of age;

(2) have a minimum of one-year supervisory experience with a private detective agency, a private patrol operator, a proprietary investigative or security organization or any federal, United States military, state, county or city law enforcement agency;

(3) be personally qualified to train private detectives in the handling of firearms and the lawful use of force; and

(4) not have been convicted of a felony or, within 10 years immediately prior to the date of application, been convicted of a misdemeanor. If the applicant is not licensed as a private detective, the applicant shall submit two classifiable sets of the applicant's fingerprints one of which shall be submitted to the ~~federal bureau of investigation for a fingerprint check~~ *Kansas bureau of investigation* for ~~any~~ *a state and national* criminal history ~~of the applicant~~ *record check in accordance with section 2, and amendments thereto*.

(c) Persons wishing to become certified trainers shall make application to the attorney general on a form prescribed by the attorney general. Applications for a firearm training certificate shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. 75-7b22, and amendments thereto. The application shall contain a statement of the plan of operation for the training offered by the applicant and the materials and aids to be used and any other information required by the attorney general.

(d) A certificate shall be granted to a trainer if the attorney general finds that the applicant:

(1) Meets the requirements of subsection (b);

(2) is a person of good character and reputation;

(3) has sufficient knowledge of private detective business, firearms training and the lawful use of force to be a suitable person to train private detectives in the handling of firearms and the lawful use of force;

(4) has supplied all required information to the attorney general; and

(5) has paid the required fee.

(e) The certificate issued pursuant to this section shall expire on December 31 of the year following the year when issued except that, on and after July 1, 2004, a certificate issued pursuant to this section shall expire two years from the date of issuance. A certificate may be renewed on a biennial basis upon application and payment of a fee in an amount fixed by the attorney general pursuant to K.S.A. 75-7b22, and amendments thereto.

Sec. 90. K.S.A. 2023 Supp. 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) *"Applicant" means a person who has submitted an application for a license to carry a concealed handgun pursuant to K.S.A. 75-7c03, and amendments thereto.*

(b) "Attorney general" means the attorney general of the state of Kansas.

~~(b)~~*(c)* "Handgun" means a "firearm," as defined in K.S.A. 75-7b01, and amendments thereto.

~~(c)~~*(d)* "Athletic event" means athletic instruction, practice or competition held at any location and including any number of athletes.

~~(d)~~*(e)* "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)~~*(f)* "License" means a provisional or standard license issued by the attorney general pursuant to K.S.A. 75-7c03, and amendments thereto.

Sec. 91. K.S.A. 2023 Supp. 75-7c05 is hereby amended to read as follows: 75-7c05. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a photocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion; (B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 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. 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) an amount of $32.50 payable to the sheriff of the county where the applicant resides for the purpose of covering the cost of taking fingerprints pursuant to subsection (c);

(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 the application to the attorney general. Notwithstanding any provision 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~~ *in accordance with section 2, and amendments thereto*.

(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) No person who is issued a license or has such license renewed shall be required to pay a fee for the cost of the license or renewal except as otherwise provided in subsection (b) for the purpose of covering the cost of taking fingerprints.

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 21-5111, and amendments thereto, shall be: (A) 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; and (B) 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) 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; and (2) 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.

Sec. 92. K.S.A. 75-7e01 is hereby amended to read as follows: 75-7e01. As used in K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2023 Supp. 50-6,141, and amendments thereto:

(a) "Surety" means a person or commercial surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond.

(b) "Bail agent" means a person authorized by a surety to execute surety bail bonds on its behalf.

(c) "Bail enforcement agent" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter.

(d) "Applicant" means a person who has submitted an application for licesure as a bail enforcement agent pursuant to this act.

Sec. 93. K.S.A. 75-7e03 is hereby amended to read as follows: 75-7e03. (a) Every person desiring to be licensed in Kansas as a bail enforcement agent shall make application to the attorney general. An application for a bail enforcement agent license shall be on a form prescribed by the attorney general and accompanied by the required application fee. An application shall be verified under penalty of perjury and shall include:

(1) The full name and business address of the applicant;

(2) two photographs of the applicant taken within 30 days before the date of application, of a type prescribed by the attorney general;

(3) a statement of the applicant's employment history;

(4) a statement of the applicant's criminal history, if any; and

(5) one classifiable set of the applicant's fingerprints.

(b) (1) Fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting *a state and national* criminal history ~~records checks~~ *record check in accordance with section 2, and amendments thereto*~~, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation~~.

(2) ~~Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards for~~

~~the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime that would disqualify the applicant from being licensed as a bail enforcement agent under K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2023 Supp. 50-6,141, and amendments thereto. The attorney general is authorized to use the information obtained from the state and national criminal history records check to determine the applicant's eligibility for such license.~~

~~(3)~~ Each applicant shall pay a fee for the criminal history records check in an amount necessary to reimburse the attorney general for the cost of the criminal history records check. Such fee shall be in an amount fixed by the attorney general pursuant to K.S.A. 75-7e08, and amendments thereto, and shall be in addition to the applicable original or renewal application fee amount fixed by the attorney general pursuant to K.S.A. 75-7e08, and amendments thereto.

(c) In accordance with the Kansas administrative procedure act, the attorney general may deny a license if the applicant has:

(1) Committed any act on or after July 1, 2016, which, if committed by a licensee, would be grounds for the censure, limitation, conditioning, suspension or revocation of a license under K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2023 Supp. 50-6,141, and amendments thereto;

(2) been convicted of a felony, unless such conviction has been expunged;

(3) in the 10 years immediately preceding the submission of the application, been convicted of an offense classified as a person misdemeanor offense, or a substantially similar offense from another jurisdiction, unless such conviction has been expunged;

(4) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by K.S.A. 75-7e01 through 75-7e09 and K.S.A. 2023 Supp. 50-6,141, and amendments thereto; or

(5) knowingly made any false statement in the application.

(d) The attorney general may charge a fee for initial application forms and materials in an amount fixed by the attorney general pursuant to K.S.A. 75-7e08, and amendments thereto. Such fee shall be credited against the application fee of any person who subsequently submits an application.

(e) Every application for an initial or a renewal license shall be accompanied by a fee in an amount fixed by the attorney general pursuant to K.S.A. 75-7e08, and amendments thereto.

Sec. 94. K.S.A. 75-3707e is hereby amended to read as follows: 75-3707e. *(a)* As the infrastructure provider for information technology for the state of Kansas, the office of information technology services must insure the highest level of information security and privacy in order to protect law enforcement, state agencies and the citizens of Kansas. ~~To-~~

~~ward this objective,~~ The department of administration or the office of information technology services shall require ~~as a condition of employment that individuals who have unescorted physical access to the data center, telecommunications facilities and other security sensitive areas as designated by the secretary of administration or the executive chief information technology officer~~ *sensitive employees to* be fingerprinted~~, and such fingerprints shall be submitted to the Kansas bureau of investigation and to the federal bureau of investigation~~ *in accordance with section 2, and amendments thereto,* for the purposes of verifying the identity of such individuals and obtaining records of criminal arrests and convictions.

(b) As used in this section, "sensitive employee" means a person who has applied for a position of employment or is currently employed by the department of administration or the office of information technology services in a position with unescorted physical access to any state-operated or contracted data center, telecommunications facility or other security-sensitive area as designated by the secretary of administration or the executive chief information technology officer.

Sec. 95. K.S.A. 75-4315d is hereby amended to read as follows: 75-4315d. (a) As used in this section:

(1) "Office" means any state office or board, commission, council, committee, authority or other governmental body the members of which are required by law to be appointed by an appointing authority, and which appointment is subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto.

(2) "Appointing authority" means a person, other than the governor, who is required by law to make an appointment to an office.

(3) "Chairperson" means the chairperson of the confirmation oversight committee.

(4) "Committee" means the confirmation oversight committee established by K.S.A. 46-2601, and amendments thereto.

(5) "Director" means the director of the Kansas legislative research department or the director's designee.

(b) No person may be appointed to an office unless such person has completed and submitted a nomination form as required by the rules of the committee. No person may be appointed to an office unless such person has filed a statement of substantial interest as required by K.S.A. 46-247, and amendments thereto. A copy of the nomination form and the statement of substantial interest shall be kept on file in the office of the director and shall be subject to disclosure under the Kansas open records act.

(c) No person may be appointed to an office unless such person has consented to a background investigation conducted by the Kansas bureau of investigation. No person may be appointed to an office unless such person is current in the payment of taxes and consents to the release of a tax

certification by the Kansas department of revenue which states whether such person is, or is not, current in the payment of taxes.

(d) Any appointing authority who desires to appoint a person to an office shall forward to the chairperson a completed copy of the nomination form, the statement of substantial interest, the consent to the release of the tax certification and a written request that a background investigation be conducted on the person nominated for appointment to an office. Upon receipt of such information, the chairperson shall forward such information and a written direction to the director to request the Kansas bureau of investigation to conduct a background investigation of such nominee *in accordance with section 2, and amendments thereto,* and to request the Kansas department of revenue to release the tax certification for such person. ~~Upon written request of the director and the appointing authority who nominated the person for appointment to an office, it shall be the duty of the Kansas bureau of investigation to conduct a background investigation of any person nominated for appointment to an office. Any person nominated for appointment to an office shall submit such person's fingerprints to the Kansas bureau of investigation for the purposes of verifying the identity of such person and obtaining records of criminal arrests and convictions. Upon written request of the director, it shall be the duty of the Kansas department of revenue to release to the director tax certification requested pursuant to this section.~~

~~(e) The director may receive from the Kansas bureau of investigation or other criminal justice agencies, including, but not limited to, the federal bureau of investigation and the federal internal revenue service, such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of a person nominated to be appointed to an office. Upon the written request of the director, the director may receive from the district courts such information relating to juvenile proceedings as necessary for the purpose of determining qualifications of a person nominated to be appointed to an office.~~

~~(f)~~*(e)* Any information received by the director pursuant to this section from the Kansas department of revenue or the Kansas bureau of investigation shall be kept on file in the office of the director or in a secure location under the control of the director within the Kansas legislative research department. After receipt of information, the director shall notify the appointing authority who nominated the person for appointment to an office and the nominee that the information is available for review in the office of the director. Upon the written request of such appointing authority or the nominee, the director shall allow such appointing authority and the nominee to review the information. Such information shall not be removed from the office of the director and shall not be duplicated or

copied in any manner. If the appointing authority chooses to proceed with the nomination of the person for appointment to an office, the director shall notify the chairperson and the vice chairperson of the committee that such information is available for review by either legislator, or both, upon the written request of either legislator, or both.

~~(g) Any information received by the director pursuant to this section from the Kansas department of revenue or the Kansas bureau of investigation, other than conviction data, shall be confidential. Except as provided by section 22 of article 2 of the Kansas constitution and subsection (f), such confidential information shall not be disclosed to any other person. Any other intentional disclosure of such confidential information is a class A nonperson misdemeanor. Any person who intentionally or unintentionally discloses confidential information in violation of this section may be removed from office or employment.~~

~~(h)~~*(f)* Any information received by the director pursuant to this section which relates to a person whose nomination for appointment to an office is confirmed by the senate as provided by K.S.A. 75-4315b, and amendments thereto, may be disposed of in the manner provided by K.S.A. 75-3501 et seq., and amendments thereto. Any information received by the director pursuant to this section which relates to a person whose nomination is withdrawn or whose appointment is not confirmed by the senate as provided by K.S.A. 75-4315b, and amendments thereto, shall be destroyed by the director. The destruction of such records shall occur no sooner than one year, and no later than two years, following the withdrawal of the nomination of the appointment or the failure of the senate to confirm the appointment of such person.

Sec. 96. K.S.A. 75-5133c is hereby amended to read as follows: 75-5133c. (a) The secretary of revenue may require~~, as a qualification for initial or continuing employment or contracting with the department of revenue, all persons having access to federal tax information received directly from the internal revenue service~~ *employees* to be fingerprinted and submit to a state and national criminal history record check. ~~The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal arrests and convictions in this state or other jurisdictions. The secretary 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 secretary in the taking and processing of fingerprints of such persons and shall release all records of a person's arrests and convictions to the secretary.~~

~~(b) The secretary may use the information obtained from fingerprinting and a person's criminal history only for the purposes of verifying the identification of such person and in the official determination of the fitness~~

~~of such person's qualification for initial or continuing employment. Disclosure or use of any information received by the secretary or a designee of the secretary for any purpose other than the purpose provided for in this section shall be a class A nonperson misdemeanor and shall constitute grounds for removal from office or termination of employment. Nothing in this section shall prevent disclosure of any information received by the secretary pursuant to this section to the post auditor in accordance with the provisions of the legislative post audit act.~~

(b) As used in this subsection, "employee" means a person who makes an application for employment or is currently employed or contracting with the department of revenue who has access to federal tax information received directly from the internal revenue service.

(c) Whenever the secretary requires fingerprinting, any associated costs shall be paid by the agency or ~~contractor~~ *employee*.

Sec. 97. K.S.A. 75-5156 is hereby amended to read as follows: 75-5156. (a) *(1)* The division of vehicles of the department of revenue shall subject all ~~persons and examiners authorized to manufacture, produce or issue drivers' licenses and identification cards~~ *employees* to appropriate security clearance requirements, as defined by rules and regulations adopted by the secretary of revenue. To insure appropriate security clearance requirements, the division of vehicles may require fingerprinting of ~~any person authorized to manufacture, produce or issue drivers' licenses and identification cards~~ *employees in accordance with section 2, and amendments thereto*. ~~The division of vehicles may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying identity, level of security risk and obtaining records of criminal arrests and convictions.~~ Any person who is determined to be a security risk by the division of vehicles shall not be eligible to manufacture, produce or issue drivers' licenses or identification cards.

(2) For the purposes of this subsection, "employee" means a person authorized to manufacture, produce or issue driver's licenses and identification cards.

(b) The division of vehicles shall establish training programs for employees who engage in the issuance of drivers' license and identification cards regarding document recognition and federal rules used to determine lawful presence.

(c) The division of vehicles shall ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(d) In the event that a social security account number is already registered or associated with another person to whom any state has issued a

driver's license or identification card, the division of vehicles shall resolve the discrepancy and take appropriate action.

(e) The division of vehicles shall retain any documentation presented to secure a license or identification card when the division of vehicles has reasonable grounds to believe the documentation or the application is fraudulent.

(f) The division of vehicles may disclose motor vehicle records, including photographs or digital images maintained in connection with the issuance of drivers' licenses, to any federal, state or local agency, including any court or law enforcement agency, to assist such agency in carrying out the functions required of such governmental agency. In January of each year, the division shall report to the house committee on veterans, military and homeland security regarding the utilization of the provisions of this subsection.

Sec. 98. K.S.A. 2023 Supp. 75-5393a is hereby amended to read as follows: 75-5393a. (a) A person seeking to interpret under K.S.A. 75-4355a through 75-4355d, and amendments thereto, and K.S.A. 2023 Supp. 75-5393a through 75-5393d and 75-5397f, and amendments thereto, or to comply with any state or federal law or rules and regulations shall obtain registration in accordance with this section.

(b) To obtain registration as an interpreter, an applicant shall submit an application on a form and in a manner prescribed by the commission and shall pay the registration fee determined by the commission in rules and regulations. The commission may grant registration to any person who:

(1) Has obtained a high school diploma or its equivalent;

(2) is 18 years of age or older;

(3) has no other record of disqualifying conduct as determined by the commission; and

(4) has obtained a certification or other appropriate credentials as determined by the commission.

(c) (1) The commission may grant registration as an interpreter to an applicant who has been duly licensed or registered as an interpreter by examination under the laws of another state, territory or the District of Columbia if, in the opinion of the commission, the applicant substantially meets the qualifications for registration as an interpreter in this state. The applicant shall provide satisfactory evidence of verification of the applicant's licensure or registration from the original state of licensure or registration.

(2) The commission may grant temporary registration to a nonresident interpreter who holds a certificate or license in such interpreter's state of residence. An interpreter granted a temporary registration shall not interpret more than 20 separate days in a year in this state.

(d) (1) Registrations issued under this section shall expire on the date established by rules and regulations of the commission unless revoked prior to that time. The commission shall send a notice for renewal of registration to every interpreter at least 60 calendar days prior to the expiration date of such person's registration.

(2) (A) A registered interpreter shall have a grace period of 30 calendar days after a registration has expired to renew such registration without a late fee. The commission may charge a late fee for any renewal application received after such grace period. The commission shall determine the amount of the late fee in rules and regulations, but such fee shall not exceed $200.

(B) An interpreter whose registration has expired after failing to submit a renewal application may renew registration upon payment of the late fee and submission of satisfactory evidence of completion of continuing education requirements established by the commission. For renewals of expired registrations, the commission may require additional testing, training or education to establish the interpreter's present ability to perform the functions and responsibilities of an interpreter.

(3) An interpreter, as a condition for renewal of a registration, shall attend not less than 30 hours of continuing education programming within a two-year period. Upon receipt of such application, payment of fee and evidence of satisfactory completion of the required continuing education, the commission shall verify the accuracy of the application and grant renewal of the registration.

(e) (1) The commission may require an applicant for registration as an interpreter to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~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 commission 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 commission may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification of the applicant and making the official determination of the qualifications and fitness of the application to be issued or maintain registration.~~

~~(2) Local and state law enforcement officers and agencies shall assist the commission in taking the fingerprints of applicants for registration. Local and state law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The Kansas bureau of investigation shall release all records of an applicant's adult convictions to the commission.~~

~~(3)~~ The commission may fix and collect a fee for fingerprinting and conducting a state and national criminal history record check of applicants or registrants as may be required by the commission in an amount equal to the cost of fingerprinting and the criminal history record check.

(f) The commission may refuse to issue, renew or reinstate a registration, may condition, limit, revoke or suspend the registration of any individual if the applicant or registrant:

(1) Has been found incompetent or negligent in the practice of interpreting;

(2) has been convicted of a felony offense or a misdemeanor against persons and has not demonstrated to the commission's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) submits an application that contains false, misleading or incomplete information;

(4) fails or refuses to provide any information requested by the commission;

(5) fails or refuses to pay the required fees;

(6) 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 registrant has not demonstrated to the commission's satisfaction that such person has been sufficiently rehabilitated to merit the public trust; or

(7) has had a license, registration or certificate to practice as an interpreter revoked, suspended or limited, or has been the subject of other disciplinary action, 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.

(g) Administrative proceedings and disciplinary actions regarding interpreter registration under K.S.A. 2023 Supp. 75-5393a through 75-5393c, and amendments thereto, shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under K.S.A. 2023 Supp. 75-5393a through 75-5393c, and amendments thereto, shall be in accordance with the Kansas judicial review act.

(h) The executive director of the commission shall adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations may include, but not be limited to:

(1) Fees, including, but not limited to, registration fees and late fees, that are necessary to fund the expenses and operating costs incurred in the administration and enforcement of this section;

(2) categories of interpreter certification and interpreter endorsements, including necessary credentials or qualifications;

(3) continuing education requirements and programs for registered interpreters;

(4) a code of professional conduct;

(5) a supervision and mentorship requirements and programs for interpreters with provisional registration;

(6) suspension or revocation of interpreter registration; and

(7) any other matter deemed necessary by the executive director to implement and administer this section.

Sec. 99. K.S.A. 2023 Supp. 75-5393c is hereby amended to read as follows: 75-5393c. (a) The commission shall develop and administer a program to provide guidelines for the utilitization of communication access services, communication access service providers and interpreter service agencies. The executive director of the commission may adopt rules and regulations to effectuate the provisions of this section. Such rules and regulations may include, but not be limited to:

(1) Fees necessary to fund the expenses and operating costs incurred in the administration and enforcement of this section;

(2) determination of the qualifications of communication access service providers;

(3) minimum standards of training of communication access service providers;

(4) registration of communication access service providers and interpreter service agencies;

(5) a code of professional conduct governing communication access service providers;

(6) standards for equipment or technology supporting communication access services;

(7) a system of statewide coordination of communication access services; and

(8) any other matter that the executive director deems necessary to effectuate the provisions of this section.

(b) (1) The commission may require communication access service providers to be fingerprinted and to submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~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 commission 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 commission may use the information obtained from fingerprinting and the applicant's criminal history for purposes of verifying the identification~~

~~of any individual and in the official determination of the qualifications and fitness of the individual to provide communication access services.~~

~~(2) Local and state law enforcement officers and agencies shall assist the commission in taking the fingerprints of individuals. Local and state law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section. The Kansas bureau of investigation shall release all records of an individual's adult convictions to the commission.~~

~~(3)~~ The commission may fix and collect a fee for fingerprinting and conducting a state and national criminal history record check of individuals pursuant to this section as may be required by the commission in an amount equal to the cost of fingerprinting and the criminal history record check.

Sec. 100. K.S.A. 2023 Supp. 75-5397f is hereby amended to read as follows: 75-5397f. As used in K.S.A 75-4355a through 75-4355d, and amendments thereto, and K.S.A. 2023 Supp. 75-5393a through 75-5393d and 75-5397f, and amendments thereto:

(a) *"Applicant" means a person who has submitted an application for registration as an interpreter.*

(b) "Commission" means the Kansas commission for the deaf and hard of hearing.

~~(b)~~*(c)* "Communication access services" includes, but is not limited to:

(1) Communication access realtime translation services;

(2) notetakers;

(3) open and closed captioning services;

(4) support service providers for the deaf-blind; and

(5) any other effective method of making aurally delivered information available to individuals who are deaf or hard of hearing.

~~(c)~~*(d)* "Communication access service provider" means an individual who is trained to offer a communication access service to communicate aurally delivered information to individuals who are deaf, hard of hearing or have speech and language impairments.

~~(d)~~*(e) "Employee" means a person registered as a communication access service provider.*

(f) "Executive director" means the executive director for the Kansas commission for the deaf and hard of hearing.

~~(e)~~*(g)* "Interpreter" means an individual who engages in the practice of interpreting.

~~(f)~~*(h)* "Interpreter service agency" means an entity that contracts with or employs registered interpreters to provide interpreter services, whether in person or remotely, for a fee.

~~(g)~~*(i)* "Interpreting" means the translating or transliterating of English concepts to any communication modes of individuals who are deaf,

hard of hearing or have speech and language impairments or the translating or transliterating of the communication modes of individuals who are deaf, hard of hearing or have speech and language impairments to English language concepts. Communication modes include, but are not limited to, American sign language, English-based sign language, cued speech, oral transliterating and information received tactually.

~~(h)~~*(j)* "Video remote interpreter" means an interpreter who engages in the practice of video remote interpreting.

~~(i)~~*(k)* "Video remote interpreting" means the process that allows an individual who is deaf or hard of hearing to communicate with a hearing individual at the same location through an interpreter displayed through videoconferencing or similar technology.

Sec. 101. K.S.A. 75-53,105 is hereby amended to read as follows: 75-53,105. (a) As used in this section, "secretary" means the secretary for children and families or the secretary for aging and disability services.

(b) The secretary shall upon request receive from the Kansas bureau of investigation such criminal history record information *in accordance with section 2, and amendments thereto,* as necessary for the purpose of determining initial and continuing qualification for employment or for participation in any program administered by the secretary for the placement, safety, protection or treatment of vulnerable children or adults.

(c) ~~The secretary shall have access to any court orders or adjudications of any court of record, any records of such orders, adjudications, arrests, nonconvictions, convictions, expungements, juvenile records, juvenile expungements, diversions and any criminal history record information in the possession of the Kansas bureau of investigation concerning such employee or individual.~~

~~(d) If a nationwide criminal records check of all records noted above is necessary, as determined by the secretary, the secretary's request will be based on the submission of fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for the identification of the individual and to obtain criminal history record information, including arrest and nonconviction data.~~

~~(e) Fees for such records checks shall be assessed to the secretary.~~

~~(f) Disclosure or use of any such information received by the secretary or a designee of the secretary or of any record containing such information, for any purpose other than that provided by this act is a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.~~ Nothing in this act shall be construed to make unlawful or prohibit the disclosure of any such information in a hearing or court proceeding involving programs administered by the secretary or prohibit the disclosure of any such information to the post auditor in accordance with and subject to the provisions of the legislative post audit act.

Sec. 102. K.S.A. 75-5609a is hereby amended to read as follows: 75-5609a. (a) The secretary of health and environment shall require any ~~person offered a position of employment in and any employee of the office of laboratory services of the Kansas department of health and environment that will have access to a secured biological laboratory~~ *employee* to be fingerprinted and submit to a state and national criminal history record check *in accordance with section 2, and amendments thereto*. ~~Such person offered a position of employment or employee shall be given written notice that a fingerprinting and state and national criminal history record check is required as a condition of initial and continued employment. The fingerprints shall be used to identify such person offered a position of employment or employee and to determine whether such person offered a position of employment or employee has a record of criminal history in this state or other jurisdiction. The secretary of health and environment 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 secretary of health and environment in the taking and processing of fingerprints of such persons offered positions of employment or employees.~~

~~(b) The secretary of health and environment shall use the information obtained from fingerprinting and criminal history for the purposes of verifying the identification of any person offered a position of employment or employee in the official determination of the eligibility of such person or employee to perform tasks within the office of laboratory services. If criminal history record information or results of drug screening is used to disqualify a person offered a position of employment or terminate an employee, such person offered a position of employment or employee shall be informed in writing of the purpose of such disqualification or termination from employment.~~

~~(c) As a condition of continued employment, any employee who has access to a secured biological laboratory in the office of laboratory services of the Kansas department of health and environment shall be subject to state and national criminal history record checks at a frequency determined by the secretary.~~

(b) As used in this section, "employee" means a person who has been offered a position of employment in or any employee of the office of laboratory services of the Kansas department of health and environment who has or will have access to a secured biological laboratory.

Sec. 103. K.S.A. 75-7241 is hereby amended to read as follows: 75-7241. (a) An executive branch agency head, with input from the CISO, ~~may~~ *shall* require ~~employees or contractors of executive branch agencies, whose duties include collection, maintenance or access to personal information,~~ *an employee* to be fingerprinted and to submit to a state and

national criminal history record check *in accordance with section 2, and amendments thereto*, at least every five years.

(b) ~~The fingerprints shall be used to identify the employee and to determine whether the employee or other such person has a record of criminal history in this state or another jurisdiction. The executive director or agency head 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. The executive director or agency head may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identity of the employee or other such person and in the official determination of the qualifications and fitness of the employee or other such person to work in the position with access to personal information.~~

(c) ~~Local and state law enforcement officers and agencies shall assist the executive director or agency head in the taking and processing of fingerprints of employees or other such persons. Local law enforcement officers and agencies may charge a fee as reimbursement for expenses incurred in taking and processing fingerprints under this section, to be paid by the executive branch agency employing or contracting the individual required to submit to fingerprinting and a criminal history record check~~ *As used in this section, "employee" means a person who has submitted an application for employment or is currently employed by or contracting with an executive branch agency whose duties include collection, maintenance or access to personal information.*

Sec. 104. K.S.A. 2-3901, 2-3902, 2-3906, 2-3907, 2-3911, 7-127, 8-2,142, 9-508, 9-509, 9-513e, 9-1719, 9-1722, 9-2201, 9-2209, 9-2301, 9-2302, 12-1,120, 12-1679, 16a-6-104, 17-2234, 19-826, 39-969, 39-970, 39-2009, 40-5502, 40-5504, 41-311b, 46-1103, 46-3301, 65-503, 65-1501a, 65-1505, 65-1696, 65-2401, 65-2402, 65-2802, 65-2839a, 65-28,129, 65-2901, 65-3503, 65-4209, 65-5117, 73-1210a, 74-1112, 74-2113, 74-4905, 74-50,182, 74-50,184, 74-5605, 74-5607, 74-7511, 74-8704, 74-8705, 74-8763, 74-8769, 74-8803, 74-8805, 74-8806, 74-9802, 74-9804, 74-9805, 75-712, 75-7b01, 75-7b04, 75-7b21, 75-7e01, 75-7e03, 75-3707e, 75-4315d, 75-5133c, 75-5156, 75-53,105, 75-5609a and 75-7241 and K.S.A. 2023 Supp. 40-4905, 40-5505, 41-102, 50-6,126, 50-1128, 58-3035, 58-3039, 58-4102, 58-4127, 58-4703, 58-4709, 65-516, 65-1120, 65-1626, 65-2924, 65-3407, 65-6129, 74-5602, 74-8702, 74-8802, 74-8804, 75-7c02, 75-7c05, 75-5393a, 75-5393c and 75-5397f are hereby repealed.

Sec. 105. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2024.

CHAPTER 16

HOUSE BILL No. 2783*

AN ACT concerning motor vehicles; prohibiting any state agency, city or county from regulating or restricting the use or sale of motor vehicles based on the energy source used; allowing the state agency, city or county to establish motor vehicle purchase policies for such state agency, city or county.

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

Section 1. (a) No state agency, city or county shall regulate or restrict the use or sale of motor vehicles by the public based on the energy source used to power a motor vehicle, including propulsion or for powering other functions of the motor vehicle.

(b) The restriction in subsection (a) does not affect any policy established by a state agency or a municipality for the purchase of vehicles for use by a state agency or a municipality.

(c) "Municipality" means the same as defined in K.S.A. 75-6102, 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 4, 2024.

CHAPTER 17

SENATE BILL No. 331

AN ACT concerning health and environment; relating to public water supply systems and hazardous waste; removing the definition of lead-free and an exception for leaded joints from public water supply system laws; updating terminology relating to hazardous waste generated by certain persons; amending K.S.A. 65-171r, 65-3415, 65-3415a and 65-3460 and K.S.A. 2023 Supp. 65-3402 and repealing the existing sections.

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

Section 1. K.S.A. 65-171r is hereby amended to read as follows: 65-171r. The following acts are prohibited:

(a) The operation of a public water supply system without first obtaining a valid public water supply system permit under K.S.A. 65-163, and amendments thereto;

(b) the operation of a public water supply system in violation of the conditions of the public water supply system permit under K.S.A. 65-163, and amendments thereto;

(c) the failure of a supplier of water under investigation to furnish information to the secretary under K.S.A. 65-163, and amendments thereto;

(d) the failure of a supplier of water to comply with any final order of the secretary issued under the provisions of K.S.A. 65-163 or 65-163a, and amendments thereto;

(e) the failure of a supplier of water to comply with a primary drinking water standard established under K.S.A. 65-171m, and amendments thereto, and rules and regulations adopted pursuant thereto unless a variance or exception has been granted;

(f) the failure of a supplier of water to comply with the rules and regulations of the secretary for monitoring, maintenance of records and submission of reports, sampling and analysis of water and inspections adopted under K.S.A. 65-171m, and amendments thereto;

(g) the failure of a supplier of water to give notice as required under K.S.A. 65-171o, and amendments thereto, and rules and regulations adopted pursuant thereto;

(h) using any pipe, solder or flux in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption, ~~which~~ *that* is not lead-free~~, except that this paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes. As used in this paragraph, "lead-free" means: (1) With respect to its usage in conjunction with solder and flux, solder and flux containing not more than .2% lead, and (2) with respect to its usage in conjunction with pipes and pipe fittings, pipes and pipe fittings containing not more than 8% lead~~;

(i) the sale of unmarked lead solders and fluxes. A seller of lead solders and fluxes in Kansas shall not sell any solder or flux containing more than .2% lead unless the seller displays a sign and a label is affixed to such product ~~which~~ *that* states: "Contains lead: Kansas law and federal law prohibits the use of this product in any plumbing installation providing water for human consumption.";

(j) the application of fertilizers, pesticides or other chemicals by any person through any lawn irrigation system connected to a public water supply system except that in areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsyphonage ~~which~~ *that* has been approved by the secretary of health and environment, such application may be permitted by the public water supply system upon its periodic inspection and current approval of the installed air gap or reduced pressure zone backflow prevention device ~~which~~ *that* isolates the irrigation system; and

(k) the use by any person of a public water supply system as a source of make-up water for bulk chemical application tanks except that: (1) In areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsyphonage ~~which~~ *that* has been approved by the secretary of health and environment, such use may be permitted by the public water supply system upon its periodic inspection and current approval of an air gap or reduced pressure zone backflow prevention device to protect the public water supply; and (2) in areas where the public water supply system has not adopted a program approved by the secretary of health and environment, such use shall be permitted if an air gap or reduced pressure zone backflow prevention device is used and such device meets nationally recognized standards, as determined by the secretary of health and environment.

Sec. 2. K.S.A. 2023 Supp. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

(a) (1) "Solid waste" means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials, including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities.

(2) "Solid waste" does not include:

(A) Hazardous wastes as defined by K.S.A. 65-3430, and amendments thereto;

(B) recyclables;

(C) the waste of domestic animals as described by K.S.A. 65-3409, and amendments thereto; or

(D) post-use polymers and recovered feedstocks that are converted at an advanced recycling facility or held at such a facility prior to conversion through an advanced recycling process.

(b) (1) "Solid waste management system" means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

(2) "Solid waste management system" does not include advanced recycling.

(c) (1) "Solid waste processing facility" means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site.

(2) "Solid waste processing facility" does not include a scrap material recycling and processing facility or an advanced recycling facility.

(d) (1) "Solid waste disposal area" means any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing or municipal operations.

(2) "Solid waste disposal area" includes all property described or included within any permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

(e) "Person" means individual, partnership, firm, trust, company, association, corporation, individual or individuals having controlling or majority interest in a corporation, institution, political subdivision, state agency or federal department or agency.

(f) "Waters of the state" means all streams and springs, and all bodies of surface or groundwater, whether natural or artificial, within the boundaries of the state.

(g) "Secretary" means the secretary of health and environment.

(h) "Department" means the department of health and environment.

(i) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water.

(j) "Open dumping" means the disposal of solid waste at any solid waste disposal area or facility that is not permitted by the secretary under the authority of K.S.A. 65-3407, and amendments thereto, or the disposal of solid waste contrary to rules and regulations adopted pursuant to K.S.A. 65-3406, and amendments thereto.

(k) "Generator" means any person who produces or brings into existence solid waste.

(l) "Monitoring" means all procedures used to:

(1) Systematically inspect and collect data on the operational parameters of a facility, an area or a transporter; or

(2) to systematically collect and analyze data on the quality of the air, groundwater, surface water or soils on or in the vicinity of a solid waste processing facility or solid waste disposal area.

(m) "Closure" means the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volume specified in the permit and preparing the area for the long-term care.

(n) "Postclosure" means that period of time subsequent to closure of a solid waste disposal area when actions at the site must be performed.

(o) "Reclamation facility" means any location ~~at which~~ *where* material containing a component defined as a hazardous substance pursuant to K.S.A. 65-3452a, and amendments thereto, or as an industrial waste pursuant to this section is processed.

(p) "Designated city" means a city or group of cities that, through interlocal agreement with the county in which they are located, is delegated the responsibility for preparation, adoption or implementation of the county solid waste plan.

(q) "Nonhazardous special waste" means any solid waste designated by the secretary as requiring extraordinary handling in a solid waste disposal area.

(r) (1) "Recyclables" means any materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product.

(2) "Recyclables" includes, but is not limited to, paper, glass, plastic, municipal water treatment residues, as defined by K.S.A. 65-163, and amendments thereto, and metal.

(3) "Recyclables" does not include yard waste.

(s) "Scrap material processing industry" means any person who accepts, processes and markets recyclables.

(t) "Scrap material recycling and processing facility" means a fixed location that utilizes machinery and equipment for processing only recyclables.

(u) *(1)* "Construction and demolition waste" means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; untreated wood and untreated sawdust from any source; treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles; furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act; solid waste consisting of motor vehicle window glass; and solid waste consisting of

vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. ~~Such wastes include~~

(2) "Construction and demolition waste" includes, but ~~are~~ *is* not limited to, bricks, concrete and other masonry materials, roofing materials, soil, rock, wood, wood products, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials, nonasbestos insulation and construction related packaging.

(3) Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered construction and demolition waste.

(4) "Construction and demolition waste" ~~shall~~ *does* not include waste material containing friable asbestos, garbage, furniture and appliances from which ozone depleting chlorofluorocarbons have not been removed in accordance with the provisions of the federal clean air act, electrical equipment containing hazardous materials, tires, drums and containers even though such wastes resulted from construction and demolition activities.

~~Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste.~~

(v) (1) "Construction and demolition landfill" means a permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition wastes.

(2) "Construction and demolition landfill" does not include a site that is used exclusively for the disposal of clean rubble.

(w) "Clean rubble" means the following types of construction and demolition waste: Concrete and concrete products including reinforcing steel, asphalt pavement, brick, rock and uncontaminated soil as defined in rules and regulations adopted by the secretary.

(x) (1) "Industrial waste" means all solid waste resulting from manufacturing, commercial and industrial processes that is not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant or is not beneficially used in a manner that meets the definition of recyclables.

(2) "Industrial waste" includes, but is not limited to: Mining wastes from extraction, beneficiation and processing of ores and minerals unless those minerals are returned to the mine site; fly ash, bottom ash, slag and flue gas emission wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil filters; and fluorescent lamps.

(y) "Composting facility" means any facility that composts wastes and has a composting area larger than one-half acre.

(z) "Household hazardous waste facility" means a facility established for the purpose of collecting, accumulating and managing household hazardous waste ~~and may also include small quantity generator waste~~. *A "household hazardous waste facility" may also collect, accumulate and mange hazardous waste generated by persons who generate less than the amounts specified in K.S.A. 65-3451(a) and (b)(3), and amendments thereto,* or agricultural pesticide waste, or both. Household hazardous wastes are consumer products that when discarded exhibit hazardous characteristics.

(aa) (1) "Waste-to-energy facility" means a facility that processes solid waste to produce energy or fuel.

(2) "Waste-to-energy facility" does not include any advanced recycling facility.

(bb) (1) "Transfer station" means any facility where solid wastes are transferred from one vehicle to another or where solid wastes are stored and consolidated before being transported elsewhere.

(2) "Transfer station" does not include a collection box provided for public use as a part of a county-operated solid waste management system if the box is not equipped with compaction mechanisms or has a volume smaller than 20 cubic yards.

(cc) "Municipal solid waste landfill" means a solid waste disposal area where residential waste is placed for disposal. A municipal solid waste landfill also may receive other nonhazardous wastes, including commercial solid waste, sludge and industrial solid waste.

(dd) (1) "Construction related packaging" means small quantities of packaging wastes that are generated in the construction, remodeling or repair of structures and related appurtenances.

(2) "Construction related packaging" does not include packaging wastes that are generated at retail establishments selling construction materials, chemical containers generated from any source or packaging wastes generated during maintenance of existing structures.

(ee) (1) "Industrial facility" includes all operations, processes and structures involved in the manufacture or production of goods, materials, commodities or other products located on, or adjacent to, an industrial site and is not limited to a single owner or to a single industrial process.

(2) "Industrial facility" includes all industrial processes and applications that may generate industrial waste that may be disposed at a solid waste disposal area that is permitted by the secretary and operated for the industrial facility generating the waste and used only for industrial waste.

(ff) (1) "Advanced recycling" means a manufacturing process where already sorted post-use polymers and recovered feedstocks are purchased and then converted into basic raw materials, feedstocks, chemicals and other products through processes that include, but are not

limited to, pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis and other similar technologies. The recycled products produced at advanced recycling facilities include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, coatings and adhesives.

(2) "Advanced recycling" does not include incineration of plastics or waste-to-energy processes, and products sold as fuel are not recycled products.

(3) For the purpose of this act and the implementation of any rules and regulations promulgated hereunder, recycled products produced at advanced recycling facilities shall be considered "recyclables" as defined in subsection (r).

(gg) (1) "Advanced recycling facility" means a manufacturing facility that:

(A) Receives, stores and converts post-use polymers and recovered feedstocks that are processed using advanced recycling;

(B) is a manufacturing facility subject to applicable department of health and environment manufacturing regulations; and

(C) the department may inspect to ensure that post-use polymers are used as raw material for advanced recycling and are not refuse or solid waste.

(2) For the purpose of this act and the implementation of any rules and regulations promulgated hereunder, "advanced recycling facilities" shall not be considered solid waste disposal facilities, final disposal facilities, solid waste management facilities, solid waste processing facilities, solid waste recovery facilities, incinerators or waste-to-energy facilities.

(3) The owner or operator of an advanced recycling facility shall be responsible for the proper disposal of all recyclable material stored on the facility premises within 60 days of closure.

(hh) "Mass balance attribution" means a chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstocks to one or more advanced recycling products.

(ii) (1) "Post-use polymer" means a plastic that:

(A) Is derived from any industrial, commercial, agricultural or domestic activities and includes pre-consumer recovered materials and post-consumer materials;

(B) has been sorted from solid waste and other regulated waste but may contain residual amounts of waste such as organic material and incidental contaminants or impurities, such as paper labels and metal rings;

(C) is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility;

(D) is used or intended to be used as a feedstock for the manufacturing of feedstocks, raw materials or other intermediate products or final products using advanced recycling; and

(E) is processed at an advanced recycling facility or held at such facility prior to processing.

(2) The term "post-use polymer" shall be considered "recyclables" as defined in subsection (r).

(jj) (1) "Recovered feedstock" means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(A) Post-use polymers; or

(B) materials for which the United States environmental protection agency has made a nonwaste determination or has otherwise determined are feedstocks and not solid waste.

(2) "Recovered feedstock" does not include unprocessed municipal solid waste or feedstock that has been mixed with solid waste or hazardous waste on site or during processing at an advanced recycling facility.

(kk) "Recycled plastics" or "recycled plastic" means products that are produced:

(1) From mechanical recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics; or

(2) from the advanced recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics through mass balance attribution under a third-party certification system.

(ll) "Third-party certification system" means an international and multi-national third-party certification system that consists of a set of rules for the implementation of mass balance attribution approaches for advanced recycling of materials. Third-party certification systems include, but are not limited to: International sustainability and carbon certification; underwriter laboratories; scs recycled content; roundtable on sustainable biomaterials; ecoloop; and redcert2.

Sec. 3. K.S.A. 65-3415 is hereby amended to read as follows: 65-3415. (a) The secretary *of health and environment* is authorized to assist counties, designated cities or regional solid waste management entities by administering grants to pay up to 60% of the costs of preparing and revising official plans for solid waste management systems in accordance with the requirements of this act and the rules and regulations and standards adopted pursuant to this act, and for carrying out related studies, surveys, investigations, inquiries, research and analyses.

(b) The secretary is authorized to assist counties, designated cities, municipalities, regional solid waste management entities that are part of an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq., and amendments thereto, or other applicable statutes, colleges, universi-

ties, schools, state agencies or private entities, by administering competitive grants that pay up to 75% of eligible costs incurred by such a county, city, regional entity, college, university, school, state agency or private entity pursuant to an approved solid waste management plan, for any project related to the development and operation of recycling, source reduction, waste minimization and solid waste management public education programs. Such projects shall include, but not be limited to, the implementation of innovative waste processing technologies ~~which~~ *that* demonstrate nontraditional methods to reduce waste volume by recovering materials or by converting the waste into usable by-products or energy through chemical or physical processes. To be eligible for competitive grants awarded pursuant to this section, a county, designated city, regional entity, college, university, school, state agency or private entity must be implementing a project ~~which~~ *that* is part of a solid waste management plan approved by the secretary or implementing a project with statewide significance as determined by the secretary with the advice and counsel of the solid waste grants advisory committee.

(c) The secretary is authorized to assist counties, cities or regional solid waste management entities that are part of an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq., and amendments thereto, or other applicable statutes, by administering grants that pay up to 60% of costs incurred by such a county, city or regional entity for:

(1) The development or enhancement of temporary and permanent household hazardous waste programs operated in accordance with K.S.A. 65-3460, and amendments thereto;

(2) the first year of operation following initial start-up of temporary and permanent household hazardous waste programs; and

(3) educating the public regarding changes in household hazardous waste collection program operations or services.

(d) The secretary is authorized to assist counties, cities or regional solid waste management entities that are part of an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq., and amendments thereto, or other applicable statutes, by administering grants that pay up to 75% of costs incurred by such a county, city or regional entity to develop and implement temporary agricultural pesticide collection programs.

(e) The secretary is authorized to assist counties, cities or regional solid waste management entities that are part of an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq., and amendments thereto, or other applicable statutes, by administering grants that pay up to 75% of costs incurred by such a county, city, or regional entity to develop and implement ~~exempt small quantity hazardous waste generator waste~~ collection programs *for hazardous waste generated by persons who generate less than the amounts specified in K.S.A. 65-3451(a) and (b)(3), and amendments thereto*, subject to the following:

(1) The aggregate amount of all such grants made for a fiscal year shall not exceed $150,000; and

(2) no grantee shall receive any such grants in an aggregate amount exceeding $50,000.

(f) (1) Failure of any public or private entity to pay solid waste tonnage fees as required pursuant to K.S.A. 65-3415b, and amendments thereto, shall bar receipt of any grant funds by such entity until fees and related penalties have been paid.

(2) Failure of a county or regional authority to perform annual solid waste plan reviews and five year public hearings, and submit appropriate notification to the secretary that such actions have been carried out pursuant to K.S.A. 65-3405, and amendments thereto, shall bar receipt of any grant funds by any entity within the jurisdiction of such county or regional authority unless the grant would support a project expected to yield benefits to counties outside the jurisdiction of such county or regional authority.

(3) A city, county, regional authority, college, university, school, state agency or private entity shall not be eligible to receive grants authorized in K.S.A. 65-3415, and amendments thereto, if the department determines that such city, county, regional authority, college, university, school, state agency or private entity is operating in substantial violation of applicable solid and hazardous waste laws or rules and regulations.

(4) The secretary may establish additional minimum requirements for grant eligibility.

(g) If the secretary determines that a grant recipient has utilized grant moneys for purposes not authorized in the grant contract, the secretary may order the repayment of such moneys and cancel any remaining department commitments under the grant. If the grant recipient fails to comply with the secretary's order, the secretary may initiate a civil action in district court to recover any unapproved expenditures, including administrative and legal expenses incurred to pursue such action. Recovered grant moneys or expenses shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the solid waste management fund.

(h) All grants shall be made in accordance with appropriation acts from moneys in the solid waste management fund created by K.S.A. 65-3415a, and amendments thereto.

(i) Local match requirements for all solid waste grant programs may be met by in-kind contributions.

Sec. 4. K.S.A. 65-3415a is hereby amended to read as follows: 65-3415a. (a) There is hereby created in the state treasury the solid waste management fund.

(b) *(1)* The secretary 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:

~~(1)~~*(A)* Solid waste tonnage fees imposed pursuant to K.S.A. 65-3415b, and amendments thereto;

~~(2)~~*(B)* application and annual fees provided for by K.S.A. 65-3407, and amendments thereto;

~~(3)~~*(C)* gifts, grants, reimbursements or appropriations intended to be used for the purposes of the fund, but excluding federal grants and cooperative agreements; and

~~(4)~~*(D)* any other moneys provided by law.

(2) Upon receipt of each such remittance, the state treasurer shall deposit in the state treasury any amount remitted pursuant to this subsection to the credit of the solid waste management fund.

(c) Moneys in the solid waste management fund shall be expended for the following purposes:

(1) Grants to counties or groups of counties or designated city or cities pursuant to K.S.A. 65-3415, and amendments thereto;

(2) monitoring and investigating solid waste management plans of counties and groups of counties;

(3) payment of extraordinary costs related to monitoring permitted solid waste processing facilities and disposal areas, both during operation and after closure;

(4) payment of costs of postclosure cleanup of permitted solid waste disposal areas ~~which~~ *that*, as a result of a postclosure occurrence, pose a substantial hazard to public health or safety or to the environment;

(5) emergency payment for costs of cleanup of solid waste disposal areas ~~which~~ *that* were closed before the effective date of this act and ~~which~~ pose a substantial risk to the public health or safety or to the environment, but the total amount of such emergency payments during a fiscal year shall not exceed an amount equal to 50% of all amounts credited to the fund during the preceding fiscal year;

(6) payment for emergency action by the secretary as necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release from a solid waste processing facility or a solid waste disposal area;

(7) payment for corrective action by the secretary at an active or closed solid waste processing facility or a solid waste disposal area where solid waste management activity has resulted in an actual or potential threat to human health or the environment, if the owner or operator has not been identified or is unable or unwilling to perform corrective action;

(8) payment of the administrative, technical and legal costs incurred by the secretary in carrying out the provisions of K.S.A. 65-3401 through 65-3423, and amendments thereto, including the cost of any additional

employees or increased general operating costs of the department attributable therefor;

(9) development of educational materials and programs for informing the public about solid waste issues;

(10) direct payments to reimburse counties or cities for household, ~~farmer or exempt small quantity generator~~ hazardous wastes, *agricultural pesticide wastes or hazardous wastes* generated *by persons who generate less than the amounts specified in K.S.A. 65-3451(a) and (b)(3), and amendments thereto, if generated* from persons not served by existing household hazardous waste programs or direct payment of contractors for the disposal costs of such wastes;

(11) payment of costs associated with the solid waste grants advisory board pursuant to K.S.A. 65-3426, and amendments thereto;

(12) with the consent of the city or county, payment for the removal and disposal or on-site stabilization of solid waste which has been illegally dumped when the responsible party is unknown, unwilling or unable to perform the necessary corrective action, provided that: (A) Moneys in the fund shall be used to pay only 75% of the costs of such corrective action and the city or county shall pay the remaining 25% of such costs; and (B) not more than $10,000 per site shall be expended from the fund for such corrective action;

(13) payment of the costs to administer regional or statewide waste collection programs designed to remove hazardous materials and wastes from homes, farms, ranches, institutions and small businesses not generally covered by state or federal hazardous waste laws and rules and regulations; and

(14) payment for the disposal of household hazardous waste generated as a result of community clean-up activities following natural disasters such as floods and tornados.

(d) If the secretary determines that expenditures from the solid waste management fund are necessary to perform authorized corrective actions related to solid waste management activities, the person or persons responsible for illegal dumping activity or the operation or long-term care of a disposal area whose failure to comply with this act, rules and regulations promulgated thereunder, or permit conditions resulted in such determination, shall be responsible for the repayment of those amounts expended. The secretary shall take appropriate action to enforce this provision against any responsible person. If amounts are recovered for payment for corrective action pursuant to subsection (c)(12), 25% of the amount recovered shall be paid to the city or county that shared in the cost of the corrective action. Otherwise, the secretary shall remit any amounts recovered and collected in such action 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 solid waste management fund. Prior to initiating any corrective action activities authorized by this section, the secretary shall give written notice to the person or persons responsible for the waste to be cleaned up and to the property owner that the department will undertake corrective action if the responsible person or persons do not perform the necessary work within a specified time period. The department and its representatives are authorized to enter private property to perform corrective actions if the responsible party fails to perform required clean-up work, but no such entry shall be made without the property owner's consent, except upon notice and hearing in accordance with the Kansas administrative procedure act and a finding that the solid waste creates a public nuisance or adversely affects the public health or the environment.

(e) Expenditures from the solid waste management 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 or a person designated by the secretary.

(f) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the solid waste management fund interest earnings based on:

(1) The average daily balance of moneys in the solid waste management fund for the preceding month; and

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

(g) The solid waste management fund shall be used for the purposes set forth in this act and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this act, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(h) The secretary shall prepare and deliver to the legislature on or before the first day of each regular legislative session, a report which summarizes all expenditures from the solid waste management fund, fund revenues and recommendations regarding the adequacy of the fund to support necessary solid waste management programs.

Sec. 5. K.S.A. 65-3460 is hereby amended to read as follows: 65-3460. (a) *The secretary of health and environment may coordinate voluntary hazardous waste collection programs* in order to*:*

(1) Provide for the safe *collection and* disposal of small quantities of*:*

(A) Household hazardous waste ~~in the possession of homeowners, householders, farmers and exempt small quantity hazardous waste generators in amounts not exceeding the amount prescribed in K.S.A. 65-3451 and amendments thereto~~;

(B) agricultural pesticide wastes; and

(C) hazardous wastes generated by persons who generate less than the amounts specified in K.S.A. 65-3451(a) and (b)(3), and amendments thereto;

(2) educate the public about the dangers posed by hazardous waste; and

(3) encourage local units of government to develop local hazardous waste collection programs either individually or jointly~~, the secretary of health and environment may coordinate voluntary hazardous waste collection programs to ensure the safe collection and disposal of such waste~~.

(b) The secretary of health and environment may adopt rules and regulations for conducting both hazardous temporary and permanent waste collection programs. The secretary shall supervise the program and ensure that the local unit of government contracts with a bonded waste handling company approved by the secretary for implementation of the program.

(c) The secretary of health and environment may receive moneys for use as grants to help defray the expense of operating hazardous waste collection programs. Any money received to defray the cost of the programs shall be deposited in the state treasury and credited to the hazardous waste collection fund, which is hereby created. Costs and expenses arising from the implementation of this section shall be paid from such fund.

(d) Not later than the first day of each legislative session, the secretary of health and environment shall submit to the speaker of the house of representatives and the president of the senate a report on hazardous waste collection programs carried out under this section during the preceding calendar year.

Sec. 6. K.S.A. 65-171r, 65-3415, 65-3415a and 65-3460 and K.S.A. 2023 Supp. 65-3402 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 4, 2024.

CHAPTER 18

HOUSE BILL No. 2632

AN ACT concerning the law enforcement memorial advisory committee; expanding the membership thereof; amending K.S.A. 75-2251 and repealing the existing section.

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

Section 1. K.S.A. 75-2251 is hereby amended to read as follows: 75-2251. (a) There is hereby established the law enforcement officers memorial advisory committee, which shall be composed of ~~10~~ *11* members as follows:

(1) A representative of the Kansas peace officers association, appointed by the governor;

(2) a representative of the Kansas chiefs of police, appointed by the governor;

(3) a representative of the Kansas fraternal order of police, appointed by the governor;

(4) a representative of the Kansas state troopers association, appointed by the governor;

(5) a representative of the Kansas sheriffs' association, appointed by the governor;

(6) *a representative of the Kansas chapter of concerns of police survivors, appointed by the governor;*

(7) the director of the Kansas bureau of investigation, or the director's designee;

~~(7)~~*(8)* the superintendent of the Kansas highway patrol, or the superintendent's designee;

~~(8)~~*(9)* the attorney general, or the attorney general's designee;

~~(9)~~*(10)* the secretary of the state historical society, or the secretary's designee; and

~~(10)~~*(11)* the secretary of corrections, or the secretary's designee.

(b) With regard to a member to be appointed by the governor as representative of the Kansas peace officers association, the Kansas chiefs of police, the Kansas fraternal order of police, the Kansas state troopers association ~~or~~, the Kansas sheriffs' association *or the Kansas chapter of concerns of police survivors*, the association or group to be represented may submit a list of at least three names for consideration by the governor in making the appointment. The governor shall consider each such list if timely submitted and may appoint from among those listed.

(c) The law enforcement officers memorial advisory committee shall be advisory to the director of architectural services and the secretary of the state historical society with regard to matters concerning the memorial to law enforcement officers on the state capitol grounds. The adviso-

ry committee may also make recommendations to the governor and the legislature regarding appropriate activities memorializing or commemorating the services of law enforcement officers in Kansas. The advisory committee may solicit grants, gifts, contributions and bequests for the memorial and shall remit all moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the law enforcement memorial fund.

(d) The members of the advisory committee shall organize annually by electing a chairperson and ~~vice-chairperson~~ *vice chairperson*. The advisory committee shall meet at least once each year upon call of the chairperson. The secretary of the state historical society, or the secretary's designee, shall serve as secretary for the advisory committee. Members of the advisory committee appointed by the governor under this section shall serve at the pleasure of the governor.

Sec. 2. K.S.A. 75-2251 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 4, 2024.

CHAPTER 19

SENATE BILL No. 381

AN ACT concerning coroners; relating to appointment in judicial districts; authorizing the board of county commissioners of any county that is not the most populous county in a multiple-county judicial district to appoint a coroner to serve as the district coroner for the county; amending K.S.A. 22a-226 and repealing the existing section.

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

Section 1. K.S.A. 22a-226 is hereby amended to read as follows: 22a-226. (a) There is hereby established the office of district coroner in each judicial district of the state. The district coroner shall be a resident of the state of Kansas licensed to practice medicine and surgery by the state board of healing arts or shall be a resident of a military or other federal enclave within the state and shall be duly licensed to practice medicine and surgery within such enclave.

(b) *(1)* The local medical society or societies in each judicial district shall nominate one or more candidates for the office of district coroner and submit the names of the persons ~~so~~ nominated to the *board of* county commissioners of a single-county judicial district or the *board of* county commissioners of the county with the largest population in *a* multiple-county judicial ~~districts~~ *district* on or before January 1, 1995, and every four years thereafter. The *board of* county commissioners of a single-county judicial district or the *board of* county commissioners of the county with the largest population in *a* multiple-county judicial ~~districts~~ *district* shall appoint a district coroner for the district. The appointee may be one of the persons nominated or some other qualified person.

(2) In a multiple-county judicial district, the board of county commissioners of any county that is not the most populous county may appoint a coroner to serve as the district coroner for the county at the expense of the county. The appointee may be a person nominated by the local medical society or societies or some other qualified person. The appointee shall be the district coroner for the appointing county and all provisions of this section related to the term of office, qualifications, requirements and duties shall apply to the appointee. The provisions of K.S.A. 22a-215, 22a-227 through 22a-233, 22a-235 and 22a-236, and amendments thereto, shall also apply.

(c) The district coroner shall serve for a term of four years, which term shall begin on the second Monday in January of the year in which such coroner is appointed, and such coroner's compensation shall be as provided by law. Vacancies in the office of district coroner shall be filled in the same manner as appointments for regular terms of district coroner. Such an appointment shall be for the remainder of the regular term and shall be effective from the date the coroner is appointed and is otherwise qualified for the office.

(d) The coroner shall, before entering upon the duties of the office, take and subscribe an oath or affirmation that such coroner will faithfully, impartially and to the best of the coroner's skill and ability discharge the duties of district coroner.

(e) The district coroner, with the approval of the *board of* county commissioners ~~of a single-county judicial district or the county commissioners of the county with the largest population in multiple-county judicial districts~~ *that appointed such coroner*, may appoint one or more deputy coroners~~,~~ who shall have the qualifications of and shall have the same duties and authority as the district coroner, except that, whenever a district coroner is unable to appoint a qualified deputy, a special deputy coroner who does not possess the requisite qualifications may be appointed for a term not to exceed one year or until a qualified deputy is appointed, whichever occurs first. The district coroner shall have supervisory authority over all deputy coroners. Deputy coroners, before entering upon the discharge of their duties shall take and subscribe an oath or affirmation to faithfully discharge the duties of their office to the same extent and with like effect as the district coroner.

(f) Nothing in this section shall prohibit a district coroner from being appointed as district coroner in more than one judicial district.

Sec. 2. K.S.A. 22a-226 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 4, 2024.

CHAPTER 20

SENATE BILL No. 433

AN ACT concerning health and healthcare; relating to institutional licenses; clarifying practice privileges; amending K.S.A. 65-2895 and repealing the existing section.

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

Section 1. K.S.A. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license that may be issued by the board to a person who:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school *for* which ~~the graduates have~~ *such graduate has* been licensed in another state or states that have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; and

(3) who is employed as provided in this section.

(b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall ~~obligate~~ *require* the holder to comply with all requirements of such license.

(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period ~~in which~~ *when such an institutional license holder*:

(1) ~~The holder~~ Is employed by any institution within the Kansas department for aging and disability services, ~~employed~~ by any institution within the department of corrections or ~~employed~~ *with a third party* pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections ~~with a third party, and~~ *except that employment of such license holder shall* only *be* within the institution to which the holder is assigned; ~~and~~

(2) ~~the holder~~ has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, ~~or~~ a federal, state, county or municipal agency, or other political subdivision, ~~or~~ a contractor of a federal, state, county or municipal agency, or other political subdivision, ~~or~~ a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 39-2001 et seq., and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, ~~and~~ whose practice~~,~~ in any such employment~~,~~ is limited to providing mental health services, ~~is~~ a part of the duties of such licensee's paid position and ~~is~~ performed solely on behalf of the employer; or

(3) ~~the holder~~ was issued an institutional license prior to May 9, 1997, and is providing mental health services pursuant to a written protocol with a person ~~who holds a Kansas license~~ *authorized by the state board of healing arts* to practice medicine and surgery other than an institutional license.

(d) An institutional license shall be canceled on the date established by rules and regulations of the board that may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for ~~a period of time of~~ more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and ~~shall be~~ accompanied by the prescribed fee that shall be paid not later than the renewal date of the license. An institutional license may be renewed for an additional one-year period if the applicant for renewal meets the requirements under subsection (c), has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed $500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed, signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this section from having ~~the~~ *such* institutional license reinstated by the board if ~~the~~ *such* person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 2. K.S.A. 65-2895 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 4, 2024.

CHAPTER 21

HOUSE BILL No. 2590

AN ACT concerning pipeline safety; relating to the state corporation commission; state pipeline safety program; violations; updating the maximum penalties that may be imposed by the commission to comply with requirements of the federal pipeline and hazardous materials safety administration; amending K.S.A. 66-1,151 and repealing the existing section.

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

Section 1. K.S.A. 66-1,151 is hereby amended to read as follows: 66-1,151. Any person who violates any rule or regulation adopted pursuant to this act, or any rule and regulation adopted by the commission and in effect on July 1, 1969, shall be subject to a civil penalty not to exceed ~~$25,000~~ *$200,000* for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed ~~$1,000,000~~ *$2,000,000* for any related series of violations.

Sec. 2. K.S.A. 66-1,151 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 4, 2024.

CHAPTER 22

HOUSE BILL No. 2604

AN ACT concerning civil procedure for limited actions; relating to the small claims procedure act; increasing the maximum dollar amount of a small claim thereunder; amending K.S.A. 61-2703 and 61-2706 and repealing the existing sections.

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

Section 1. K.S.A. 61-2703 is hereby amended to read as follows: 61-2703. As used in this act:

(a) "Small claim" means a claim for the recovery of money or personal property, where the amount claimed or the value of the property sought does not exceed ~~$4,000~~ *$10,000*, exclusive of interest, costs and any damages awarded pursuant to K.S.A. 60-2610*,* and amendments thereto. In actions of replevin, the verified petition fixing the value of the property shall be determinative of the value of the property for jurisdictional purposes. A small claim shall not include:

(1) An assigned claim;

(2) a claim based on an obligation or indebtedness allegedly owed to a person other than the person filing the claim, where the person filing the claim is not a full-time employee or officer of the person to whom the obligation or indebtedness is allegedly owed; or

(3) a claim obtained through subrogation.

(b) "Person" means an individual, partnership, limited liability company, corporation, fiduciary, joint venture, society, organization or other association of persons.

Sec. 2. K.S.A. 61-2706 is hereby amended to read as follows: 61-2706. (a) Whenever a plaintiff demands judgment beyond the scope of the small claims jurisdiction of the court, the court shall ~~either~~:

(1) Dismiss the action without prejudice at the cost of the plaintiff;

(2) allow the plaintiff to amend the plaintiff's pleadings and service of process to bring the demand for judgment within the scope of the court's small claims jurisdiction and thereby waive the right to recover any excess, assessing the costs accrued to the plaintiff; or

(3) if the plaintiff's demand for judgment is within the scope of the court's general jurisdiction, allow the plaintiff to amend the plaintiff's pleadings and service of process so as to commence an action in such court in compliance with K.S.A. 61-1703*,* and amendments thereto, assessing the costs accrued to the plaintiff.

(b) Whenever a defendant asserts a claim beyond the scope of the court's small claims jurisdiction, but within the scope of the court's general jurisdiction, the court may determine the validity of defendant's entire claim. If the court refuses to determine the entirety of any such claim, the court must allow the defendant to *make*:

(1) ~~Make~~ No demand for judgment and reserve the right to pursue the defendant's entire claim in a court of competent jurisdiction;

(2) ~~make~~ demand for judgment of that portion of the claim not exceeding ~~$4,000~~ *$10,000*, plus interest, costs and any damages awarded pursuant to K.S.A. 60-2610, and amendments thereto, and reserve the right to bring an action in a court of competent jurisdiction for any amount in excess thereof; or

(3) ~~make~~ demand for judgment of that portion of the claim not exceeding ~~$4,000~~ *$10,000*, plus interest, costs and any damages awarded pursuant to K.S.A. 60-2610, and amendments thereto, and waive the right to recover any excess.

Sec. 3. K.S.A. 61-2703 and 61-2706 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 4, 2024.

CHAPTER 23

HOUSE BILL No. 2605

AN ACT concerning the board of indigents' defense services; relating to appointed counsel; increasing the maximum rate paid to appointed counsel; amending K.S.A. 22-4507 and repealing the existing section.

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

Section 1. K.S.A. 22-4507 is hereby amended to read as follows: 22-4507. (a) An attorney, other than a public defender or assistant public defender or contract counsel, who is appointed by the court to perform services for an indigent person, as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall, at the conclusion of such service or any part thereof, be entitled to compensation for such services and to be reimbursed for expenses reasonably incurred by such person in performing such services. Compensation for services shall be paid in accordance with standards and guidelines contained in rules and regulations adopted by the state board of indigents' defense services under this section.

(b) Claims for compensation and reimbursement shall be certified by the claimant and ~~shall be~~ presented to the court at sentencing. A supplemental claim may be filed at such later time as the court may in the interest of justice determine if good cause is shown why the claim was not presented at sentencing. In accordance with standards and guidelines adopted by the state board of indigents' defense services under this section, all such claims shall be reviewed and approved by one or more judges of the district court before whom the service was performed, or, in the case of proceedings in the court of appeals, by the chief judge of the court of appeals and, in the case of proceedings in the supreme court, by the departmental justice for the department in which the appeal originated. Each claim shall be supported by a written statement, specifying in detail the time expended, the services rendered, the expenses incurred in connection with the case and any other compensation or reimbursement received. When properly certified and reviewed and approved, each claim for compensation and reimbursement shall be filed in the office of the state board of indigents' defense services. If the claims meet the standards established by the board, the board shall authorize payment of the claim.

(c) *(1)* Such attorney shall be compensated at ~~the~~ *a* rate ~~of $80 per hour~~ *not less than $120 per hour and not more than $140 per hour*, except that:

~~(1)~~*(A)* The chief judge of any judicial district may negotiate an hourly rate less than ~~$80 per hour~~ *the maximum rate* for attorneys who voluntarily accept appointments in that district; or

~~(2)~~*(B)* contract counsel shall be compensated at the rate or rates specified in the contract between the board and the assigned counsel.

(2) If the state board of indigents' defense services determines that the appropriations for indigents' defense services or the moneys allocated by the board for a county or judicial district will be insufficient in any fiscal year to pay in full claims filed and reasonably anticipated to be filed in such year under this section, the board may adopt a formula for prorating the payment of pending and anticipated claims under this section.

(d) The state board of indigents' defense services may make expenditures for payment of claims filed under this section from appropriations for the current fiscal year regardless of when the services were rendered.

(e) The state board of indigents' defense services shall adopt rules and regulations prescribing standards and guidelines governing the filing, processing and payment of claims under this section.

(f) An attorney, other than a public defender, assistant public defender or contract counsel, who is appointed by the court to perform services for an indigent person and who accesses electronic court records for an indigent person, as provided by this act, shall be exempt from paying fees to access electronic court records.

Sec. 2. K.S.A. 22-4507 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 4, 2024.

CHAPTER 24

HOUSE BILL No. 2661

AN ACT concerning boards of county commissioners; relating to vacancies created by an increase in the number of commissioner districts; providing for the staggering of terms of commissioners elected to fill such vacancies; amending K.S.A. 19-202, 19-203, 19-203a, 19-204 and 19-204a and repealing the existing sections.

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

Section 1. K.S.A. 19-202 is hereby amended to read as follows: 19-202. (a) The board of county commissioners of each county shall consist of three, five or seven qualified electors.

(b) Except as provided in K.S.A. 19-204b, and amendments thereto, one county commissioner shall reside in and represent each commissioner district within the county. During the time that any person is a candidate for nomination or election to office as a member of the board of county commissioners and during the term of office of the county commissioner, such candidate or county commissioner shall be and remain a qualified elector who resides in such person's district.

(c) Except as provided by K.S.A. ~~19-203~~ *19-203a*, and amendments thereto, terms of office for the board of county commissioners shall be staggered in such a way that no more than a simple majority of commissioners is elected at any general election.

(d) Except as provided by K.S.A. ~~19-203~~ *19-203a*, and amendments thereto, all county commissioners shall hold office for a term of four years from the second Monday of January next after their election and until their successors are qualified.

(e) The provisions of subsections (a), (c) and (d) of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 2. K.S.A. 19-203 is hereby amended to read as follows: 19-203. (a) ~~Subject to the provisions of K.S.A. 19-204b, and amendments thereto,~~ *Except as provided in subsection (c),* when a vacancy occurs in the office of a member of the board of county commissioners, ~~it~~ *such vacancy* shall be filled by appointment of a resident in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, ~~it~~ *such vacancy* shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general election. Such successor shall assume office on the second Monday of January next following such election.

(b) Appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) ~~Subject to the provisions of K.S.A. 19-204b, and amendments thereto,~~ Vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled at an election as provided ~~in~~ *by* K.S.A. 19-203a, and amendments thereto.

(d) The candidate receiving the highest number of votes in each ~~commission~~ *commissioner* district shall serve until successors are elected and qualified at the next general election. Such successors shall assume office on the second Monday of January next following their election. ~~If at the next general election following the special election more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of districts shall be elected for two-year terms and until their successors are qualified. Thereafter such members shall be elected to four-year terms and until their successors are qualified.~~

Sec. 3. K.S.A. 19-203a is hereby amended to read as follows: 19-203a. (a) ~~The governor, within five days of~~ *Vacancies created in the office of commissioner by* the board of county ~~commissioners adopting~~ *commissioner's adoption of* a resolution *or by judicial order pursuant to K.S.A. 19-204a, and amendments thereto,* dividing the county into the number of districts approved by voters following ~~the~~ *an* election expanding the size of the board of county commissioners ~~as provided in~~ *pursuant to* K.S.A. 19-204(c), and amendments thereto, ~~in consultation with the board of county commissioners, shall either: (1) Declare the election to be held at the next regularly scheduled general election; or (2) declare the date of the special election required under K.S.A. 19-203(c), and amendments thereto.~~

~~If the decision is to call a special election, the vacancy election shall be on a day not less than 75 days nor more than 90 days from the date of the board of county commissioners adopting such resolution~~ *shall be filled at the next regularly held general election.*

(b) ~~The county chairperson of each political party that has obtained official recognition shall call a convention for a date not less than 15 days and not more than 25 days after the governor's declaration. Such party shall nominate a candidate to fill the vacancies that have occurred due to the expansion of the size of the board of county commissioners.~~

~~(c) Independent candidates may be nominated by petition of not less than 5% of the qualified electors within the county commission district. Any such petition shall be filed with the county election officer within 25 days of the governor's declaration.~~

(1) If at the next regularly held general election more than a simple majority of commissioners are elected, persons elected to the positions created by an increase in the number of commissioner districts shall be elect-

ed for two-year terms and shall serve until their successors are qualified. Thereafter, such commissioners shall be elected to four-year terms and shall serve until their successors are qualified.

(2) If the next regularly held general election is in an odd-numbered year, persons elected to the positions created by an increase in the number of commissioner districts shall be elected for either one-year or three-year terms as determined by the board of county commissioners so as to prevent the election of more than a simple majority of commissioners at any subsequent general election. Such persons shall serve until their successors are qualified.

(c) For purposes of this section, "general election" means the same as defined in K.S.A. 25-2502, and amendments thereto.

Sec. 4. K.S.A. 19-204 is hereby amended to read as follows: 19-204. (a) ~~Subject to the provisions of K.S.A. 19-204b, and amendments thereto, and subject to the provisions of~~ *Except as provided by* K.S.A. 19-204a, and amendments thereto, the board of county commissioners, on the day of the organization of the board or as soon thereafter as may be possible, shall meet and divide the county into three commissioner districts or such number of districts as is prescribed by resolution of the board, as compact and equal in population as possible, and number them. Such districts shall be subject to alteration at least once every three years.

(b) In Shawnee county, each district shall include residents of both the incorporated and unincorporated areas of the county. The number of residents in each district from the unincorporated area of the county shall be as equal in number, as possible. Such districts shall be subject to alteration at least once every three years.

~~If the districts do not meet the requirements of this subsection, the districts shall be altered to comply with such requirements no later than 30 days following the effective date of this act.~~

(c) The board of county commissioners of any county, by resolution, may divide the county into three, five or seven commissioner districts, as compact and equal in population as possible, but no such resolution ~~which~~ *that* would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election following not less than 60 days the adoption of such resolution, in which all the qualified electors of the county are entitled to vote. Upon the presentation of a petition to the board of county commissioners, signed by electors equal in number to 5% of the qualified electors of the county and verified by the county election officer, requesting that the number of commissioner districts be changed, the board of county commissioners shall cause such proposition to be submitted to the voters of the county at the next general election, following not less than 60 days the presentation of such petition,

in which all of the qualified electors of the county are entitled to vote. In the event that more than one such petition is presented to the board of county commissioners prior to a general election, and any of such petitions conflicts with any other such petition with respect to the number of commissioner districts requested, the board of county commissioners shall decide, by majority vote thereon, which of the propositions shall be submitted to the voters at the next such general election. If a majority of the electors voting at such election shall be in favor of changing the number of commissioner districts, the board of county commissioners shall provide for the division of the county into commissioner districts as provided in K.S.A. 19-204a, and amendments thereto.

(d) No change in the number of commissioner districts shall become effective in any county within four years of the effective date of any previous change in the number of commissioner districts in such county.

(e) The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 5. K.S.A. 19-204a is hereby amended to read as follows: 19-204a. ~~Subject to the provisions of K.S.A. 19-204b, and amendments thereto,~~ When the voters of a county approve a change in the number of county commissioner districts at an election held under K.S.A. 19-204*(c)*, and amendments thereto, the board of county commissioners, on or before January 1 immediately following such election, shall adopt a resolution dividing the county into the number of districts approved by the voters. If the board of county commissioners fails to adopt such resolution within the time prescribed, the chief judge of the district court of the county, on or before the following January 31, shall order the county divided into the appropriate number of districts.

Sec. 6. K.S.A. 19-202, 19-203, 19-203a, 19-204 and 19-204a 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 4, 2024.

Published in the *Kansas Register* April 18, 2024.

CHAPTER 25

SENATE BILL No. 360
(Amended by Chapter 100)

AN ACT concerning tax-advantaged savings programs; allowing the taxpayer to elect the taxable year in which a subtraction modification for contributions to 529 qualified tuition accounts, ABLE accounts or first-time home buyer savings accounts would be applied; authorizing the state treasurer to appoint a 529 program advisory committee; amending K.S.A. 75-644 and K.S.A. 2023 Supp. 79-32,117 and repealing the existing sections.

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

Section 1. K.S.A. 75-644 is hereby amended to read as follows: 75-644. (a) The state treasurer shall implement and administer the program under the terms and conditions established by K.S.A. 75-640 ~~to~~ *through* 75-648, and amendments thereto.

(b) In furtherance of such implementation and administration, the state treasurer shall have the authority and responsibility to:

(1) Develop and implement the program in a manner consistent with the provisions of K.S.A. 75-640 ~~to~~ *through* 75-648, and amendments thereto, through adoption of rules and regulations;

(2) engage the services of consultants on a contract basis for rendering professional and technical assistance and advice;

(3) seek rulings and other guidance from the United States department of treasury and the federal internal revenue service relating to the program;

(4) make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529 of the federal internal revenue code of 1986, as amended, or any similar successor legislation;

(5) charge, impose and collect administrative fees and service charges in connection with any agreement, contract or transaction relating to the program;

(6) develop marketing plans and promotion material;

(7) establish the methods by which the funds held in accounts shall be ~~dispersed~~ *disbursed*;

(8) establish the method by which funds shall be allocated to pay for administrative costs;

(9) do all things necessary and proper to carry out the purposes of K.S.A. 75-640 ~~to~~ *through* 75-648, and amendments thereto;

(10) adopt rules and regulations necessary to administer K.S.A. 75-640 ~~to~~ *through* 75-648, and amendments thereto; ~~and~~

(11) evaluate the Kansas postsecondary education savings program annually, and make a report thereon to the governor and legislature for the period*; and*

(12) appoint an advisory committee to make recommendations for the implementation and operation of the program. The state treasurer shall determine the membership of the committee, and members shall serve at the pleasure of the state treasurer. No member of the advisory committee appointed pursuant to this paragraph shall receive any compensation, subsistence, mileage or other allowance for serving on the advisory committee.

Sec. 2. K.S.A. 2023 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction, except that the federal net operating loss deduction shall not be added to an individual's federal adjusted gross income for tax years beginning after December 31, 2016.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for

such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 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 subsection (c)(xv) 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 insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For 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. 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. 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. 72-4357, 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.

(xxviii) For all taxable years beginning after December 31, 2021, the amount of any contributions to, or earnings from, a first-time home buyer savings account if distributions from the account were not used to pay for expenses or transactions authorized pursuant to K.S.A. 2023 Supp. 58-4904, and amendments thereto, or were not held for the minimum length of time required pursuant to K.S.A. 2023 Supp. 58-4904, and amendments thereto. Contributions to, or earnings from, such account shall also include any amount resulting from the account holder not designating a surviving payable on death beneficiary pursuant to K.S.A. 2023 Supp. 58-4904(e), and amendments thereto.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b(a) and 228c(a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 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. *For all taxable years beginning after December 31, 2022, contributions made to a qualified tuition program account or a qualified ABLE program account pursuant to this paragraph on and after January 1 but prior to the date required for filing a return pursuant to K.S.A. 79-3221, and amendments thereto, of the successive taxable year may be elected by the taxpayer to apply to the prior taxable year if such election is made at the time of filing the return. No contribution shall be used as a modification pursuant to this paragraph in more than one taxable year.*

(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, 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 taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) For all taxable years beginning after December 31, 2013, amounts equal to the unreimbursed travel, lodging and medical expenditures directly incurred by a taxpayer while living, or a dependent of the

taxpayer while living, for the donation of one or more human organs of the taxpayer, or a dependent of the taxpayer, to another person for human organ transplantation. The expenses may be claimed as a subtraction modification provided for in this section to the extent the expenses are not already subtracted from the taxpayer's federal adjusted gross income. In no circumstances shall the subtraction modification provided for in this section for any individual, or a dependent, exceed $5,000. As used in this section, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to the director of the budget that the cost for the department of revenue of modifications to the automated tax system for the purpose of implementing this paragraph will not exceed $20,000.

(xxii) For 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.

(xxviii) For all taxable years beginning after December 31, 2021: (1) The amount contributed to a first-time home buyer savings account pursuant to K.S.A. 2023 Supp. 58-4903, and amendments thereto, in an amount not to exceed $3,000 for an individual or $6,000 for a married couple filing a joint return; or (2) amounts received as income earned from assets in a first-time home buyer savings account. *For all taxable years beginning after December 31, 2022, contributions made to a first-time home buyer savings account pursuant to subparagraph (1) on and after January 1 but prior to the date required for filing a return pursuant to K.S.A. 79-3221, and amendments thereto, of the successive taxable year may be elected by the taxpayer to apply to the prior taxable year if such election is made at the time of filing the return. No contribution shall be used as a modification pursuant to subparagraph (1) in more than one taxable year.*

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

Sec. 3. K.S.A. 75-644 and K.S.A. 2023 Supp. 79-32,117 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 4, 2024.

Published in the *Kansas Register* April 11, 2024.

CHAPTER 26

SENATE BILL No. 362

AN ACT repealing K.S.A. 19-26,120; relating to the expiration of the Sedgwick county urban area nuisance abatement act.

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

Section 1. K.S.A. 19-26,120 is hereby repealed.

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

Approved April 4, 2024.

CHAPTER 27

SENATE BILL No. 430

AN ACT concerning workers compensation; relating to coverage under the act, notice, benefits, liability limitations, definitions, evidentiary standards, hearings, admission of evidence, procedures, settlements and other matters; providing coverage for members of the Kansas national guard under the workers compensation act; limiting reduction to awards for functional impairment on the basis of preexisting impairment to preexisting impairment to the same physical structure as the body part injured; limiting reductions to benefits based on retirement benefits; defining registered mail; requiring a judicial determination of dependency for immediate payment of death benefit; increasing the maximum amount of death benefits; extending the time period for payments to dependent children when in schools; providing for a yearly adjustment to the maximum death benefit to commence in 2027; increasing the minimum weekly payment for permanent total disability; adding certain functional impairment requirements to the determination of permanent total disability; increasing the minimum weekly payment amount for temporary total disability; providing that loss of use of a scheduled member shall be the percentage of functional impairment the employee sustained on account of the injury; reducing the percentage of functional impairment required for eligibility for permanent partial general disability compensation; increasing employers' maximum liability for permanent total disability, temporary total disability, permanent or temporary partial disability and permanent partial disability and providing for a yearly adjustment in such maximum liability limits to commence in 2027; applying an employer's credit for voluntary payments of unearned wages to any award; increasing the maximum employer liability for unauthorized medical care; increasing the evidentiary standard for future medical treatment after maximum medical improvement in certain circumstances; limiting proceedings for post-award medical benefits; creating a presumption that no costs or attorney fees be awarded when requests for post-award medical benefits are provided within 30 days; defining money for purposes of the average weekly wage; excluding the first week of employment in the calculation of an employee's average weekly wage under certain circumstances; allowing payment of certain benefits by electronic funds transfer or payment card; increasing employer liability for expenses of claimant for required examinations; establishing procedures for neutral healthcare examinations and for the exchange of medical reports between parties; providing for the admission of medical reports without necessity of additional foundation subject to compliance with certain procedures; extending deadlines for notice to an employer by an employee of injury; eliminating the three-year deadline for a claimant's motion to extend time for proceeding to avoid dismissal for lack of prosecution; prohibiting an award from including future medical treatment unless a specified standard of proof is met; clarifying certain language referencing a claimant; providing a procedure for expedited settlement on written stipulations by means of a form established by the director of workers compensation; allowing the record of hearings by digital recording and transcription by either a court reporter or a notary public; providing that certified reporters fees be taxed as costs if no record is taken; providing for the workers compensation fund to implead a principal as a party in a proceeding; providing for certain other changes to the workers compensation act; amending K.S.A. 44-501, 44-508, 44-510b, 44-510c, 44-510d, 44-510e, 44-510f, 44-510h, 44-510k, 44-511, 44-512, 44-515, 44-516, 44-519, 44-520, 44-523, 44-525, 44-526, 44-531, 44-534a, 44-552 and 44-566a and repealing the existing sections.

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

New Section 1. (a) Except as provided by subsection (b), on and after July 1, 2024, any member of the national guard who is entitled to benefits

under K.S.A. 48-263, and amendments thereto, subject to the limitations of K.S.A. 48-264, and amendments thereto, shall, in lieu of receiving the benefits under K.S.A. 48-261 through 48-271, and amendments thereto, be subject to the procedures, benefits and compensation established by the workers compensation act in K.S.A. 44-501 et seq., and amendments thereto.

(b) Any wound, injury, disease, illness or death that occurs prior to July 1, 2024, that entitles a member to benefits shall be governed by K.S.A. 48-261 through 48-271, and amendments thereto.

(c) The average weekly wage of a member, for the purposes of K.S.A. 44-511, and amendments thereto, shall be the member's current military earnings.

(d) If a member or their dependents receive federal compensation due to a wound, injury, disease, illness or death that is covered by the workers compensation act, the amount of federal compensation shall be deducted from the amount otherwise due from the state of Kansas. Before any claim is processed under the workers compensation act, the member shall sign an authorization consenting to the release of any information pertaining to the federal compensation paid for any wound, injury, disease, illness or death covered under the workers compensation act.

Sec. 2. K.S.A. 44-501 is hereby amended to read as follows: 44-501. (a) (1) Compensation for an injury shall be disallowed if such injury to the employee results from:

(A) The employee's deliberate intention to cause such injury;

(B) the employee's willful failure to use a guard or protection against accident or injury which is required pursuant to any statute and provided for the employee;

(C) the employee's willful failure to use a reasonable and proper guard and protection voluntarily furnished the employee by the employer;

(D) the employee's reckless violation of their employer's workplace safety rules or regulations; or

(E) the employee's voluntary participation in fighting or horseplay with a co-employee for any reason, work related or otherwise.

(2) Subparagraphs (B) and (C) of paragraph (1) of subsection (a) shall not apply when it was reasonable under the totality of the circumstances to not use such equipment, or if the employer approved the work engaged in at the time of an accident or injury to be performed without such equipment.

(b) (1) (A) The employer shall not be liable under the workers compensation act where the injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including, but not limited to, any drugs or medications which are available to the public without a pre-

scription from a ~~health care~~ *healthcare* provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens.

(B) In the case of drugs or medications which are available to the public without a prescription from a ~~health care~~ *healthcare* provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months.

(C) It shall be conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that, at the time of the injury, the employee had an alcohol concentration of .04 or more, or a GCMS confirmatory test by quantitative analysis showing a concentration at or above the levels shown on the following chart for the drugs of abuse listed:

	Confirmatory test cutoff levels (ng/ml)
Marijuana metabolite[1]	15
Cocaine metabolite[2]	150
Opiates:	
Morphine	2000
Codeine	2000
6-Acetylmorphine[4]	10 ng/ml
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine[3]	500

[1] Delta-9-tetrahydrocannabinol-9-carboxylic acid.

[2] Benzoylecgonine.

[3] Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

[4] Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

(D) If it is shown that the employee was impaired pursuant to subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable presumption that the accident, injury, disability or death was contributed to by such impairment. The employee may overcome the presumption of contribution by clear and convincing evidence.

(E) An employee's refusal to submit to a chemical test at the request of the employer shall result in the forfeiture of benefits under the workers compensation act if the employer had sufficient cause to suspect the use of alcohol or drugs by the claimant or if the employer's policy clearly authorizes post-injury testing.

(2) The results of a chemical test shall be admissible evidence to prove impairment if the employer establishes that the testing was done under any of the following circumstances:

(A) As a result of an employer mandated drug testing policy, in place in writing prior to the date of accident or injury, requiring any worker to submit to testing for drugs or alcohol;

(B) during an autopsy or in the normal course of medical treatment for reasons related to the health and welfare of the injured worker and not at the direction of the employer;

(C) the worker, prior to the date and time of the accident or injury, gave written consent to the employer that the worker would voluntarily submit to a chemical test for drugs or alcohol following any accident or injury;

(D) the worker voluntarily agrees to submit to a chemical test for drugs or alcohol following any accident or injury; or

(E) as a result of federal or state law or a federal or state rule or regulation having the force and effect of law requiring a post-injury testing program and such required program was properly implemented at the time of testing.

(3) Notwithstanding subsection (b)(2), the results of a chemical test performed on a sample collected by an employer shall not be admissible evidence to prove impairment unless the following conditions are met:

(A) The test sample was collected within a reasonable time following the accident or injury;

(B) the collecting and labeling of the test sample was performed by or under the supervision of a licensed ~~health care~~ *healthcare* professional;

(C) the 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;

(D) the test was confirmed by gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample;

(E) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the employee; and

(F) a split sample sufficient for testing shall be retained and made available to the employee within 48 hours of a positive test.

(c) (1) Except as provided in paragraph (2), compensation shall not be paid in case of coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.

(2) For events occurring on or after July 1, 2014, in the case of a firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto, or a law enforcement officer as defined by K.S.A. 74-5602, and amendments thereto, coronary or coronary artery disease or cerebrovascular injury shall be compensable if:

(A) The injury can be identified as caused by a specific event occurring in the course and scope of employment;

(B) the coronary or cerebrovascular injury occurred within 24 hours of the specific event; and

(C) the specific event was the prevailing factor in causing the coronary or coronary artery disease or cerebrovascular injury.

(d) Except as provided in the workers compensation act, no construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under the workers compensation act, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(e) An award of compensation for permanent partial impairment, work disability, or permanent total disability shall be reduced by the amount of functional impairment determined to be preexisting *to the same physical structure as the body part injured*. Any such reduction shall not apply to temporary total disability, nor shall it apply to compensation for medical treatment.

(1) Where workers compensation benefits have previously been awarded through settlement or judicial or administrative determination in Kansas, the percentage basis of the prior settlement or award shall conclusively establish the amount of functional impairment determined to be preexisting. Where workers compensation benefits have not previously been awarded through settlement or judicial or administrative determination in Kansas, the amount of preexisting functional impairment shall be established by competent evidence.

(2) In all cases, the applicable reduction shall be calculated as follows:

(A) If the preexisting impairment is the result of injury sustained while working for the employer against whom workers compensation benefits are currently being sought, any award of compensation shall be reduced by the current dollar value attributable under the workers compensation act to the percentage of functional impairment determined to

be preexisting. The "current dollar value" shall be calculated by multiplying the percentage of preexisting impairment by the compensation rate in effect on the date of the accident or injury against which the reduction will be applied.

(B) In all other cases, the employer against whom benefits are currently being sought shall be entitled to a credit for the percentage of preexisting impairment.

(f) If the employee receives~~, whether periodically or by lump sum,~~ retirement benefits under the federal social security act~~ or retirement benefits from any other retirement system, program, policy or plan which is provided by the employer against which the claim is being made~~, any compensation benefit payments~~ which~~ *for permanent partial disability or permanent total disability that* the employee is eligible to receive under the workers compensation act for such claim shall be reduced by *50% of* the weekly equivalent amount of~~ the total amount of all~~ such retirement benefits,~~ less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee,~~ but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment. *The reduction in benefits allowed by this subsection shall not apply to temporary total disability compensation or temporary partial disability compensation.*

(g) If the employee receives retirement benefits from any other retirement system, program, policy or plan that is provided by the employer against whom the claim is being made, any compensation for permanent partial disability or permanent total disability benefits the employee is eligible to receive under the workers compensation act for the claim shall be reduced by the weekly equivalent amount of such retirement benefits less any portion of any such retirement benefit that is attributable to payments or contributions made by the employee. In no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment. The credit allowed by this subsection shall not apply to temporary total disability compensation or temporary partial disability compensation.

(h) Where the employee elects to take retirement benefits in a lump sum, the lump sum payment shall be amortized at the rate of 4% per year over the employee's life expectancy to determine the weekly equivalent value of the benefits.

Sec. 3. K.S.A. 44-508 is hereby amended to read as follows: 44-508. As used in the workers compensation act:

(a) "Employer" includes: (1) Any person or body of persons, corporate or unincorporated, and the legal representative of a deceased employer

or the receiver or trustee of a person, corporation, association or partnership; (2) the state or any department, agency or authority of the state, any city, county, school district or other political subdivision or municipality or public corporation and any instrumentality thereof; and (3) for the purposes of community service work, the entity for which the community service work is being performed and the governmental agency that assigned the community service work, if any, if either such entity or such governmental agency has filed a written statement of election with the director to accept the provisions under the workers compensation act for persons performing community service work and in such case such entity and such governmental agency shall be deemed to be the joint employer of the person performing the community service work and both shall have the rights, liabilities and immunities provided under the workers compensation act for an employer with regard to the community service work, except that the liability for providing benefits shall be imposed only on the party that filed such election with the director or on both if both parties have filed such election with the director; for purposes of community service work, "governmental agency" shall not include any court or any officer or employee thereof and any case where there is deemed to be a "joint employer" shall not be construed to be a case of dual or multiple employment.

(b) ~~"Workman" or~~ *"Worker,"* "employee,"~~ or "worker"~~ *"claimant" or "workman"* means any person who has entered into the employment of or works under any contract of service or apprenticeship with an employer. Such terms shall include, but not be limited to: Executive officers of corporations; professional athletes; persons serving on a volunteer basis as duly authorized law enforcement officers, emergency medical service providers, as defined in K.S.A. 65-6112, and amendments thereto, firefighters, but only to the extent and during such periods as they are so serving in such capacities; persons employed by educational, religious and charitable organizations, but only to the extent and during the periods that they are paid wages by such organizations; persons in the service of the state or any department, agency or authority of the state, any city, school district or other political subdivision or municipality or public corporation and any instrumentality thereof, under any contract of service, express or implied, and every official or officer thereof, whether elected or appointed, while performing official duties; persons in the service of the state as volunteer members of the Kansas department of civil air patrol, but only to the extent and during such periods as they are officially engaged in the performance of functions specified in K.S.A. 48-3302, and amendments thereto; volunteers in any employment, if the employer has filed an election to extend coverage to such volunteers; minors, whether such minors are legally or illegally employed; and persons performing

community service work, but only to the extent and during such periods as they are performing community service work and if an election has been filed an election to extend coverage to such persons. Any reference to an employee who has been injured shall, where the employee is dead, include a reference to the employee's dependents, to the employee's legal representatives or, if the employee is a minor or an incapacitated person, to the employee's guardian or conservator. Unless there is a valid election in effect that has been filed as provided in K.S.A. 44-542a, and amendments thereto, such terms shall not include individual employers, limited liability company members, partners or self-employed persons.

(c) (1) "Dependents" means such members of the employee's family as were wholly or in part dependent upon the employee at the time of the accident or injury.

(2) "Members of a family" means only surviving legal spouse and children; or if no surviving legal spouse or children, then parents or grandparents; or if no parents or grandparents, then grandchildren; or if no grandchildren, then brothers and sisters. In the meaning of this section, parents include stepparents, children include stepchildren, grandchildren include stepgrandchildren, brothers and sisters include stepbrothers and stepsisters, and children and parents include that relation by legal adoption. In the meaning of this section, a surviving spouse shall not be regarded as a dependent of a deceased employee or as a member of the family, if the surviving spouse shall have for more than six months willfully or voluntarily deserted or abandoned the employee prior to the date of the employee's death.

(3) "Wholly dependent child or children" means:

(A) A birth child or adopted child of the employee except such a child whose relationship to the employee has been severed by adoption;

(B) a stepchild of the employee who lives in the employee's household;

(C) any other child who is actually dependent in whole or in part on the employee and who is related to the employee by marriage or consanguinity; or

(D) any child as defined in subsection (c)(3)(A), (3)(B) or (3)(C) who is less than 23 years of age and who is not physically or mentally capable of earning wages in any type of substantial and gainful employment or who is a full-time student attending an accredited institution of higher education or vocational education.

(d) "Accident" means an undesigned, sudden and unexpected traumatic event, usually of an afflictive or unfortunate nature and often, but not necessarily, accompanied by a manifestation of force. An accident shall be identifiable by time and place of occurrence, produce at the time symptoms of an injury and occur during a single work shift. The accident

must be the prevailing factor in causing the injury. "Accident" shall in no case be construed to include repetitive trauma in any form.

(e) "Repetitive trauma" refers to cases where an injury occurs as a result of repetitive use, cumulative traumas or microtraumas. The repetitive nature of the injury must be demonstrated by diagnostic or clinical tests. The repetitive trauma must be the prevailing factor in causing the injury. "Repetitive trauma" shall in no case be construed to include occupational disease, as defined in K.S.A. 44-5a01, and amendments thereto.

In the case of injury by repetitive trauma, the date of injury shall be the earliest of:

(1) The date the employee, while employed for the employer against whom benefits are sought, is taken off work by a physician due to the diagnosed repetitive trauma;

(2) the date the employee, while employed for the employer against whom benefits are sought, is placed on modified or restricted duty by a physician due to the diagnosed repetitive trauma;

(3) the date the employee, while employed for the employer against whom benefits are sought, is advised by a physician that the condition is work-related; or

(4) the last day worked, if the employee no longer works for the employer against whom benefits are sought.

In no case shall the date of accident be later than the last date worked.

(f) (1) "Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto. Personal injury or injury may occur only by accident, repetitive trauma or occupational disease as those terms are defined.

(2) An injury is compensable only if it arises out of and in the course of employment. An injury is not compensable because work was a triggering or precipitating factor. An injury is not compensable solely because it aggravates, accelerates or exacerbates a preexisting condition or renders a preexisting condition symptomatic.

(A) An injury by repetitive trauma shall be deemed to arise out of employment only if:

(i) The employment exposed the worker to an increased risk or hazard to which the worker would not have been exposed in normal nonemployment life;

(ii) the increased risk or hazard to which the employment exposed the worker is the prevailing factor in causing the repetitive trauma; and

(iii) the repetitive trauma is the prevailing factor in causing both the medical condition and resulting disability or impairment.

(B) An injury by accident shall be deemed to arise out of employment only if:

(i) There is a causal connection between the conditions under which the work is required to be performed and the resulting accident; and

(ii) the accident is the prevailing factor causing the injury, medical condition and resulting disability or impairment.

(3) (A) The words "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include:

(i) Injury that occurred as a result of the natural aging process or by the normal activities of day-to-day living;

(ii) accident or injury that arose out of a neutral risk with no particular employment or personal character;

(iii) accident or injury that arose out of a risk personal to the worker; or

(iv) accident or injury that arose either directly or indirectly from idiopathic causes.

(B) The words "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to the employee occurring while the employee is on the way to assume the duties of employment or after leaving such duties, the proximate cause of which injury is not the employer's negligence. An employee shall not be construed as being on the way to assume the duties of employment or having left such duties at a time when the worker is on the premises owned or under the exclusive control of the employer or on the only available route to or from work that is a route involving a special risk or hazard connected with the nature of the employment, that is not a risk or hazard to which the general public is exposed and that is a route not used by the public except in dealings with the employer. An employee shall not be construed as being on the way to assume the duties of employment, if the employee is a provider of emergency services responding to an emergency.

(C) The words, "arising out of and in the course of employment" as used in the workers compensation act shall not be construed to include injuries to employees while engaged in recreational or social events under circumstances where the employee was under no duty to attend and where the injury did not result from the performance of tasks related to the employee's normal job duties or as specifically instructed to be performed by the employer.

(g) "Prevailing" as it relates to the term "factor" means the primary factor, in relation to any other factor. In determining what constitutes the "prevailing factor" in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.

(h) "Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of

the whole record unless a higher burden of proof is specifically required by this act.

(i) "Director" means the director of workers compensation as provided for in K.S.A. 75-5708, and amendments thereto.

(j) "Healthcare provider" means any person licensed, by the proper licensing authority of this state, another state or the District of Columbia, to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry, audiology or psychology.

(k) "Secretary" means the secretary of labor.

(l) "Construction design professional" means any person who is an architect, professional engineer, landscape architect or land surveyor who has been issued a license by the state board of technical professions to practice such technical profession in Kansas or any corporation organized to render professional services through the practice of one or more of such technical professions in Kansas under the professional corporation law of Kansas or any corporation issued a certificate of authorization under K.S.A. 74-7036, and amendments thereto, to practice one or more of such technical professions in Kansas.

(m) "Community service work" means: (1) Public or community service performed as a result of a contract of diversion or of assignment to a community corrections program or conservation camp or suspension of sentence or as a condition of probation or in lieu of a fine imposed by court order; or (2) public or community service or other work performed as a requirement for receipt of any kind of public assistance in accordance with any program administered by the secretary for children and families.

(n) "Utilization review" means the initial evaluation of appropriateness in terms of both the level and the quality of healthcare and health services provided to a patient, based on accepted standards of the healthcare profession involved. Such evaluation is accomplished by means of a system that identifies the utilization of healthcare services above the usual range of utilization for such services, that is based on accepted standards of the healthcare profession involved and that refers instances of possible inappropriate utilization to the director for referral to a peer review committee.

(o) "Peer review" means an evaluation by a peer review committee of the appropriateness, quality and cost of healthcare and health services provided a patient that is based on accepted standards of the healthcare profession involved and that is conducted in conjunction with utilization review.

(p) "Peer review committee" means a committee composed of healthcare providers licensed to practice the same healthcare profession as the healthcare provider who rendered the healthcare services being reviewed.

(q) "Group-funded self-insurance plan" includes each group-funded workers compensation pool that is authorized to operate in this state un-

der K.S.A. 44-581 through 44-592, and amendments thereto, each municipal group-funded pool under the Kansas municipal group-funded pool act that is covering liabilities under the workers compensation act and any other similar group-funded or pooled plan or arrangement that provides coverage for employer liabilities under the workers compensation act and is authorized by law.

(r) ~~On and after the effective date of this act,~~ "Workers compensation board" or "board" means the workers compensation appeals board established under K.S.A. 44-555c, and amendments thereto.

(s) "Usual charge" means the amount most commonly charged by healthcare providers for the same or similar services.

(t) "Customary charge" means the usual rates or range of fees charged by healthcare providers in a given locale or area.

(u) "Functional impairment" means the extent, expressed as a percentage, of the loss of a portion of the total physiological capabilities of the human body as established by competent medical evidence and based on the ~~fourth~~ *sixth* edition of the American medical association guides to the evaluation of *permanent* impairment, if the impairment is contained therein.

(v) "Authorized treating physician" means a licensed physician or other healthcare provider authorized by the employer or insurance carrier, or both, or appointed pursuant to court-order to provide those medical services deemed necessary to diagnose and treat an injury arising out of and in the course of employment.

(w) "Mail" means the use of the United States postal service or other land based delivery service or transmission by electronic means, including delivery by fax, e-mail or other electronic delivery method designated by the director of workers compensation.

(x) "Registered mail" means:

(1) Registered mail or certified mail that provides a mailing receipt or is trackable and provides proof of receipt;

(2) electronic mail with proof that the electronic mail was delivered; or

(3) facsimile with proof of delivery.

(y) "Complete medical report" means the report of a healthcare provider giving the healthcare provider's qualifications and the patient's history, complaints, details of the findings of any and all laboratory, x-ray and other technical examinations, diagnosis, prognosis, nature of impairment and disability, if any, and an estimate of the percentage of permanent partial disability, if any. An element or elements of a "complete medical report" may be met by the healthcare provider's records.

Sec. 4. K.S.A. 44-510b is hereby amended to read as follows: 44-510b. Where death results from injury, compensation shall be paid as provided in K.S.A. 44-510h and 44-510i, and amendments thereto, and as follows:

(a) If an employee leaves any dependents wholly dependent upon the employee's earnings at the time of the accident or injury, all compensation benefits under this section shall be paid to the dependent persons. *Upon a judicial determination of dependency,* there shall be an initial payment of $60,000 to the surviving legal spouse or a wholly dependent child or children or both. The initial payment shall not be subject to the 8% discount as provided in K.S.A. 44-531, and amendments thereto. The initial payment shall be immediately due and payable and apportioned 50% to the surviving legal spouse and 50% to the dependent children. Thereafter, the dependents shall be paid weekly compensation, except as otherwise provided in this section, in a total sum to all the dependents, equal to $66^{2}/_{3}$% of the average weekly wage of the employee at the time of the accident or injury, computed as provided in K.S.A. 44-511, and amendments thereto, but in no event shall the weekly benefits exceed the maximum weekly benefits provided in K.S.A. 44-510c, and amendments thereto, nor be less than a minimum weekly benefit of the dollar amount nearest to 50% of the state's average weekly wage as determined pursuant to K.S.A. 44-511, and amendments thereto, subject to the following:

(1) If the employee leaves a surviving legal spouse or a wholly dependent child or children, or both, who are eligible for benefits under this section, then all death benefits shall be paid to the surviving spouse or children, or both, and no benefits shall be paid to any other wholly or partially dependent persons.

(2) A surviving legal spouse shall be paid compensation benefits for life, except as otherwise provided in this section.

(3) Any wholly dependent child of the employee shall be paid compensation, except as otherwise provided in this section, until the dependent child becomes 18 years of age, unless the child is enrolled in high school. In that event, compensation shall continue until May 30th of the child's senior year in high school or until the child becomes 19 years of age, whichever is earlier. A wholly dependent child of the employee shall be paid compensation, except as otherwise provided in this section, until the dependent child becomes 23 years of age during any period of time that one of the following conditions is met:

(A) The wholly dependent child is not physically or mentally capable of earning wages in any type of substantial and gainful employment; or

(B) the wholly dependent child is a student enrolled full-time in an accredited institution of higher education or vocational education.

(4) If the employee leaves no legal spouse or dependent children eligible for benefits under this section but leaves other dependents wholly dependent upon the employee's earnings, the other dependents shall receive weekly compensation benefits as provided in this subsection until death, remarriage or so long as the other dependents do not receive more

than 50% of their support from any other earnings or income or from any other source, except that the maximum benefits payable to all the other dependents, regardless of the number of the other dependents, shall not exceed a maximum amount of $100,000.

(b) Where the employee leaves a surviving legal spouse and dependent children who were wholly dependent upon the employee's earnings and are eligible for benefits under this section 50% of the maximum weekly benefits payable shall be apportioned to the spouse and 50% to the dependent children.

(c) If an employee does not leave any dependents who were wholly dependent upon the employee's earnings at the time of the injury but leaves dependents, other than a spouse or children, in part dependent on the employee's earnings, the percentage of a sum equal to three times the employee's average yearly earnings but not exceeding $100,000 but not less than $25,000, as the employee's average annual contributions which the employee made to the support of the dependents during the two years preceding the date of the injury, bears to the employee's average yearly earnings during the contemporaneous two-year period, shall be paid in compensation to the dependents, in weekly payments as provided in subsection (a), not to exceed $100,000 to all the dependents.

(d) If an employee does not leave any dependents, either wholly or partially dependent upon the employee, a lump-sum payment of $100,000 shall be made to the legal heirs of the employee in accordance with Kansas law. If the employer procured a life insurance policy with beneficiaries designated by the employee and in an amount not less than $50,000, then the amount paid to the legal heirs under this section shall be reduced by the amount of the life insurance policy up to a maximum deduction of $100,000. However under no circumstances shall the payment escheat to the state.

(e) The administrative law judge, except as otherwise provided in this section, shall have the power and authority to apportion and reapportion the compensation allowed under this section, either to wholly dependent persons or partially dependent persons, in accordance with the degree of dependency as of the date of the injury, except that the weekly payment of compensation to any and all dependents shall not exceed the maximum nor be less than the minimum weekly benefits provided in subsection (a).

(f) In all cases of death compensable under this section, the employer shall pay the reasonable expense of burial not exceeding $10,000. Where required, the employer shall pay the costs of a court-appointed conservator not to exceed $2,500.

(g) The marriage or death of any dependent shall terminate all compensation, under this section, to the dependent except the marriage of the surviving legal spouse shall not terminate benefits to the spouse. Upon

the death of the surviving legal spouse or the marriage or death of a dependent child, the compensation payable to the spouse or child shall be reapportioned to those, among the surviving legal spouse and dependent children, who remain eligible to receive compensation under this section.

(h) Notwithstanding any other provision in this section to the contrary, the maximum amount of compensation benefits payable under this section, including the initial payment in subsection (a) to any and all dependents by the employer shall not exceed a total amount of ~~$300,000~~ *$500,000* and when the total amount has been paid the liability of the employer for any further compensation under this section to dependents~~, other than minor children of the employee,~~ shall cease except that the payment of compensation under this section to any ~~minor~~ *wholly dependent* child of the employee shall continue ~~for the period of the child's minority~~ *until the latest of the following dates* at the weekly rate in effect when the employer's liability ~~is~~ *would* otherwise *be* terminated ~~under this subsection and shall not be subject to termination under this subsection until the child~~*:*

(1) The wholly dependent child, who is not enrolled in high school, becomes 18 years of age*;*

(2) if enrolled in high school, May 30 of the wholly dependent child's senior year in high school or until the child becomes 19 years of age, whichever occurs first; or

(3) the wholly dependent child's 23rd birthday, if such child is a student enrolled full-time in an accredited institution of higher education or vocational education.

(i) *The maximum compensation benefits payable as provided by subsection (h) shall remain in effect until June 30, 2027. Beginning on July 1, 2027, and each July 1 thereafter, the maximum compensation benefits payable as provided by subsection (h) shall be adjusted to reflect changes in the state average weekly wage. To determine the yearly adjustment, the director shall determine the percentage of change in the state average weekly wage for the current year pursuant to K.S.A. 44-704, and amendments thereto, as well as the percentage change in the state average weekly wage for each of the prior four years. Each year's percentage change in the state average weekly wage shall be added together with the sum then divided by five to arrive at the average percentage change over the five-year period. The maximum compensation benefits shall then be adjusted by such average percentage change.*

(j) Persons receiving benefits under this section shall submit an annual statement to the insurance carrier, self-insured employer or group-funded workers compensation pool paying the benefits, in the form and containing the information relating to eligibility for compensation under this section as may be required by rules and regulations of the director. If

the person receiving benefits under this section is a surviving spouse or a dependent child who has reached the age of majority, the person shall personally submit an annual statement. If the person receiving benefits under this section is a dependent child subject to a conservator, the conservator of the child shall submit the annual statement. If the person fails to submit an annual statement, the payer of benefits may notify the director of the failure and the director shall notify the person of the failure by certified mail with return receipt. If the person fails to submit the annual statement or fails to reasonably provide the required information within 30 days after receipt of the notice from the director, all compensation benefits paid under this section to the person shall be suspended until the annual statement is submitted in proper form to the payer of benefits.

Sec. 5. K.S.A. 44-510c is hereby amended to read as follows: 44-510c. Where death does not result from the injury, compensation shall be paid as provided in K.S.A. 44-510h and 44-510i, and amendments thereto, and as follows:

(a) (1) Where permanent total disability results from the injury, weekly payments shall be made during the period of permanent total disability in a sum equal to 66⅔% of the average weekly wage of the injured employee, computed as provided in K.S.A. 44-511, and amendments thereto, but in no case less than ~~$25~~ *$50* per week nor more than the dollar amount nearest to 75% of the state's average weekly wage, determined as provided in K.S.A. 44-511, and amendments thereto, per week. The payment of compensation for permanent total disability shall continue for the duration of such disability, subject to review and modification as provided in K.S.A. 44-528, and amendments thereto.

(2) *(A)* Permanent total disability exists when the employee, on account of the injury~~,~~*:*

(i) Has been rendered completely and permanently incapable of engaging in any type of substantial and gainful employment*;*

(ii) suffers impairment as established by competent medical evidence and based on the 6th edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein; and

(iii) suffers a percentage of functional impairment determined to be caused solely by the injury that is equal to or exceeds 10% to the body as a whole or the overall functional impairment is equal to or exceeds 15% if there is a preexisting functional impairment.

(B) Expert evidence shall be required to prove permanent total disability.

(3) An injured worker shall not be eligible to receive more than one award of workers compensation permanent total disability in such worker's lifetime.

(b) (1) Where temporary total disability results from the injury, no compensation shall be paid during the first week of disability, except that provided in K.S.A. 44-510h and 44-510i, and amendments thereto, unless the temporary total disability exists for three consecutive weeks, in which case compensation shall be paid for the first week of such disability. Thereafter weekly payments shall be made during such temporary total disability, in a sum equal to $66^{2}/_{3}\%$ of the average gross weekly wage of the injured employee, computed as provided in K.S.A. 44-511, and amendments thereto, but in no case less than ~~$25~~ *$50* per week nor more than the dollar amount nearest to 75% of the state's average weekly wage, determined as provided in K.S.A. 44-511, and amendments thereto, per week.

(2) (A) Temporary total disability exists when the employee, on account of the injury, has been rendered completely and temporarily incapable of engaging in any type of substantial and gainful employment. A release issued by a ~~health care~~ *healthcare* provider with temporary restrictions for an employee may or may not be determinative of the employee's actual ability to be engaged in any type of substantial and gainful employment, provided that if there is an authorized treating physician, such physician's opinion regarding the employee's work status shall be presumed to be determinative.

(B) Where the employee remains employed with the employer against whom benefits are sought, an employee shall be entitled to temporary total disability benefits if the authorized treating physician imposed temporary restrictions as a result of the work injury which the employer cannot accommodate. A refusal by the employee of accommodated work within the temporary restrictions imposed by the authorized treating physician shall result in a rebuttable presumption that the employee is ineligible to receive temporary total disability benefits.

(C) If the employee has been terminated for cause or voluntarily resigns following a compensable injury, the employer shall not be liable for temporary total disability benefits if the employer could have accommodated the temporary restrictions imposed by the authorized treating physician but for the employee's separation from employment.

(3) Where no award has been entered, a return by the employee to any type of substantial and gainful employment shall suspend the employee's right to the payment of temporary total disability compensation, but shall not affect any right the employee may have to compensation for partial disability in accordance with K.S.A. 44-510d and 44-510e, and amendments thereto.

(4) An employee shall not be entitled to receive temporary total disability benefits for those weeks during which the employee is also receiving unemployment benefits.

(c) When any permanent total disability or temporary total disability is followed by partial disability, compensation shall be paid as provided in K.S.A. 44-510d and 44-510e, and amendments thereto.

Sec. 6. K.S.A. 44-510d is hereby amended to read as follows: 44-510d. (a) Where disability, partial in character but permanent in quality, results from the injury, the injured employee shall be entitled to the compensation provided in K.S.A. 44-510h and 44-510i, and amendments thereto. The injured employee may be entitled to payment of temporary total disability as defined in K.S.A. 44-510c, and amendments thereto, or temporary partial disability as defined in subsection (a)(1) of K.S.A. 44-510e, and amendments thereto, provided that the injured employee shall not be entitled to any other or further compensation for or during the first week following the injury unless such disability exists for three consecutive weeks, in which event compensation shall be paid for the first week. Thereafter compensation shall be paid for temporary total or temporary partial disability as provided in the following schedule, 66⅔% of the average weekly wages to be computed as provided in K.S.A. 44-511, and amendments thereto, except that in no case shall the weekly compensation be more than the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

(b) If there is an award of permanent disability as a result of the injury there shall be a presumption that disability existed immediately after the injury and compensation is to be paid for not to exceed the number of weeks allowed in the following schedule:

(1) For loss of a thumb, 60 weeks.

(2) For the loss of a first finger, commonly called the index finger, 37 weeks.

(3) For the loss of a second finger, 30 weeks.

(4) For the loss of a third finger, 20 weeks.

(5) For the loss of a fourth finger, commonly called the little finger, 15 weeks.

(6) Loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of ½ of such thumb or finger, and the compensation shall be ½ of the amount specified above. The loss of the first phalange and any part of the second phalange of any finger, which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of ⅔ of such finger and the compensation shall be ⅔ of the amount specified above. The loss of the first phalange and any part of the second phalange of a thumb which includes the loss of any part of the bone of such second phalange, shall be considered to be equal to the loss of the entire thumb. The loss of the first and second phalanges and any part of the third proximal phalange of any finger, shall be considered as the loss of the entire finger. Amputation through the joint shall be considered a loss to the next higher schedule.

(7) For the loss of a great toe, 30 weeks.

(8) For the loss of any toe other than the great toe, 10 weeks.

(9) The loss of the first phalange of any toe shall be considered to be equal to the loss of ½ of such toe and the compensation shall be ½ of the amount above specified.

(10) The loss of more than one phalange of a toe shall be considered to be equal to the loss of the entire toe.

(11) For the loss of a hand, 150 weeks.

(12) For the loss of a forearm, 200 weeks.

(13) For the loss of an arm, excluding the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures, 210 weeks, and for the loss of an arm, including the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures, 225 weeks.

(14) For the loss of a foot, 125 weeks.

(15) For the loss of a lower leg, 190 weeks.

(16) For the loss of a leg, 200 weeks.

(17) For the loss of an eye, or the complete loss of the sight thereof, 120 weeks.

(18) Amputation or severance below the wrist shall be considered as the loss of a hand. Amputation at the wrist and below the elbow shall be considered as the loss of the forearm. Amputation at or above the elbow shall be considered loss of the arm. Amputation below the ankle shall be considered loss of the foot. Amputation at the ankle and below the knee shall be considered as loss of the lower leg. Amputation at or above the knee shall be considered as loss of the leg.

(19) For the complete loss of hearing of both ears, 110 weeks.

(20) For the complete loss of hearing of one ear, 30 weeks.

(21) Permanent loss of the use of a finger, thumb, hand, shoulder, arm, forearm, toe, foot, leg or lower leg or the permanent loss of the sight of an eye or the hearing of an ear, shall be equivalent to the loss thereof. For the permanent partial loss of the use of a finger, thumb, hand, shoulder, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear, compensation shall be paid as provided for in K.S.A. 44-510c, and amendments thereto, per week during that proportion of the number of weeks in the foregoing schedule provided for the loss of such finger, thumb, hand, shoulder, arm, toe, foot or leg or the sight of an eye or the hearing of an ear, which partial loss thereof bears to the total loss of a finger, thumb, hand, shoulder, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear; but in no event shall the compensation payable hereunder for such partial loss exceed the compensation payable under the schedule for the total loss of such finger, thumb, hand, arm, toe, foot or leg, or the sight of an eye or the hearing of an ear, exclusive of the healing period. As used in this paragraph (21), "shoulder" means

the shoulder joint, shoulder girdle, shoulder musculature or any other shoulder structures.

(22) For traumatic hernia, compensation shall be limited to the compensation under K.S.A. 44-510h and 44-510i, and amendments thereto, compensation for temporary total disability during such period of time as such employee is actually unable to work on account of such hernia, and, in the event such hernia is inoperable, weekly compensation during 12 weeks, except that, in the event that such hernia is operable, the unreasonable refusal of the employee to submit to an operation for surgical repair of such hernia shall deprive such employee of any benefits under the workers compensation act.

(23) Loss of or loss of use of a scheduled member shall be ~~based upon permanent~~ *the percentage of functional* impairment ~~of function to~~ the ~~scheduled member as determined using the fourth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein, until January 1, 2015, but for injuries occurring on and after January 1, 2015, shall be determined by using~~ *employee sustained on account of the injury as established by competent medical evidence and based on* the ~~sixth~~ *6th* edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein.

(24) Where an injury results in the loss of or loss of use of more than one scheduled member within a single extremity, the functional impairment attributable to each scheduled member ~~shall be combined pursuant to the fourth edition of the American medical association guides for evaluation of permanent impairment until January 1, 2015, but for injuries occurring on and after January 1, 2015,~~ shall be combined pursuant to the ~~sixth~~ *6th* edition of the American medical association guides to the evaluation of permanent impairment, and compensation awarded shall be calculated to the highest scheduled member actually impaired.

(c) Whenever the employee is entitled to compensation for a specific injury under the foregoing schedule, the same shall be exclusive of all other compensation except the benefits provided in K.S.A. 44-510h and 44-510i, and amendments thereto, and no additional compensation shall be allowable or payable for any temporary or permanent, partial or total disability, except that the director, in proper cases, may allow additional compensation during the actual healing period, following amputation. The healing period shall not be more than 10% of the total period allowed for the scheduled injury in question nor in any event for longer than 15 weeks. The return of the employee to the employee's usual occupation shall terminate the healing period.

(d) The amount of compensation for permanent partial disability under this section shall be determined by multiplying the payment rate by the weeks payable. As used in this section:

(1) Payment rate shall be the lesser of: (A) The amount determined by multiplying the average weekly wage of the worker prior to such injury by 66⅔%; or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto;

(2) weeks payable shall be determined as follows: (A) Determine the weeks of benefits provided for the injury on schedule; (B) determine the weeks of temporary compensation paid by adding the amounts of temporary total and temporary partial disability compensation paid and dividing the sum by the payment rate above; (C) subtract the weeks of temporary compensation calculated in (d)(2)(B) from the weeks of benefits provided for the injury as determined in (d)(2)(A); and (D) multiply the weeks as determined in (d)(2)(C) by the percentage of permanent partial impairment of function as determined under subsection (b)(23).

The resulting award shall be paid for the number of weeks at the payment rate until fully paid or modified. Under no circumstances shall the period of permanent partial disability run concurrently with the period of temporary total or temporary partial disability.

Sec. 7. K.S.A. 44-510e is hereby amended to read as follows: 44-510e. (a) In case of whole body injury resulting in temporary or permanent partial general disability not covered by the schedule in K.S.A. 44-510d, and amendments thereto, the employee shall receive weekly compensation as determined in this subsection during the period of temporary or permanent partial general disability not exceeding a maximum of 415 weeks.

(1) Weekly compensation for temporary partial general disability shall be 66⅔% of the difference between the average weekly wage that the employee was earning prior to the date of injury and the amount the employee is actually earning after such injury in any type of employment. In no case shall such weekly compensation exceed the maximum as provided for in K.S.A. 44-510c, and amendments thereto.

(2) (A) Permanent partial general disability exists when the employee is disabled in a manner which is partial in character and permanent in quality and which is not covered by the schedule in K.S.A. 44-510d, and amendments thereto. Compensation for permanent partial general disability shall also be paid as provided in this section where an injury results in:

(i) The loss of or loss of use of a shoulder, arm, forearm or hand of one upper extremity, combined with the loss of or loss of use of a shoulder, arm, forearm or hand of the other upper extremity;

(ii) the loss of or loss of use of a leg, lower leg or foot of one lower extremity, combined with the loss of or loss of use of a leg, lower leg or foot of the other lower extremity; or

(iii) the loss of or loss of use of both eyes.

(B) The extent of permanent partial general disability shall be the percentage of functional impairment the employee sustained on account

of the injury as established by competent medical evidence and based on the ~~fourth~~ *6th* edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein~~, until January 1, 2015, but for injuries occurring on and after January 1, 2015, based on the sixth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein~~.

(C) An employee may be eligible to receive permanent partial general disability compensation in excess of the percentage of functional impairment ("work disability") if:

(i) The percentage of functional impairment determined to be caused solely by the injury *is equal to or* exceeds 7½% to the body as a whole or the overall functional impairment is equal to or exceeds 10% to the body as a whole in cases where there is preexisting functional impairment; and

(ii) the employee sustained a post-injury wage loss, as defined in subsection (a)(2)(E)~~ of K.S.A. 44-510e, and amendments thereto~~, of at least 10% which is directly attributable to the work injury and not to other causes or factors.

In such cases, the extent of work disability is determined by averaging together the percentage of post-injury task loss demonstrated by the employee to be caused by the injury and the percentage of post-injury wage loss demonstrated by the employee to be caused by the injury.

(D) "Task loss"~~ shall mean~~ *means* the percentage to which the employee, in the opinion of a licensed physician, has lost the ability to perform the work tasks that the employee performed in any substantial gainful employment during the five-year period preceding the injury. The permanent restrictions imposed by a licensed physician as a result of the work injury shall be used to determine those work tasks which the employee has lost the ability to perform. If the employee has preexisting permanent restrictions, any work tasks which the employee would have been deemed to have lost the ability to perform, had a task loss analysis been completed prior to the injury at issue, shall be excluded for the purposes of calculating the task loss which is directly attributable to the current injury.

(E) "Wage loss"~~ shall mean~~ *means* the difference between the average weekly wage the employee was earning at the time of the injury and the average weekly wage the employee is capable of earning after the injury. The capability of a worker to earn post-injury wages shall be established based upon a consideration of all factors, including, but not limited to, the injured worker's age, physical capabilities, education and training, prior experience, and availability of jobs in the open labor market. The administrative law judge shall impute an appropriate post-injury average weekly wage based on such factors. Where the employee is engaged in post-injury employment for wages, there shall be a rebuttable presumption

that the average weekly wage an injured worker is actually earning constitutes the post-injury average weekly wage that the employee is capable of earning. The presumption may be overcome by competent evidence.

(i) To establish post-injury wage loss, the employee must have the legal capacity to enter into a valid contract of employment. Wage loss caused by voluntary resignation or termination for cause shall in no way be construed to be caused by the injury.

(ii) The actual or projected weekly value of any employer-paid fringe benefits are to be included as part of the worker's post-injury average weekly wage and shall be added to the wage imputed by the administrative law judge pursuant to ~~K.S.A. 44-510e(a)(2)(E), and amendments thereto~~ *this subparagraph*.

(iii) The injured worker's refusal of accommodated employment within the worker's medical restrictions as established by the authorized treating physician and at a wage equal to 90% or more of the pre-injury average weekly wage shall result in a rebuttable presumption of no wage loss.

(F) The amount of compensation for whole body injury under this section shall be determined by multiplying the payment rate by the weeks payable. As used in this section: (1) The payment rate shall be the lesser of: (A) The amount determined by multiplying the average weekly wage of the worker prior to such injury by 66⅔%; or (B) the maximum provided in K.S.A. 44-510c, and amendments thereto; (2) weeks payable shall be determined as follows: (A) Determine the weeks of temporary compensation paid by adding the amounts of temporary total and temporary partial disability compensation paid and dividing the sum by the payment rate above; (B) subtract from 415 weeks the total number of weeks of temporary compensation paid as determined in (F)(2)(A), excluding the first 15 such weeks; and (3) multiply the number of weeks as determined in (F)(2)(B) by the percentage of functional impairment pursuant to subsection (a)(2)(B) or the percentage of work disability pursuant to subsection (a)(2)(C), whichever is applicable.

(3) When an injured worker is eligible to receive an award of work disability, compensation is limited to the value of the work disability as calculated above. In no case shall functional impairment and work disability be awarded together.

The resulting award shall be paid for the number of disability weeks at the payment rate until fully paid or modified. In any case of permanent partial disability under this section, the employee shall be paid compensation for not to exceed 415 weeks following the date of such injury. If there is an award of permanent disability as a result of the compensable injury, there shall be a presumption that disability existed immediately after such injury. Under no circumstances shall the period of permanent partial disability run concurrently with the period of temporary total or temporary partial disability.

(b) If an employee has sustained an injury for which compensation is being paid, and the employee's death is caused by other and independent causes, any payment of compensation already due the employee at the time of death and then unpaid shall be paid to the employee's dependents directly or to the employee's legal representatives if the employee left no dependent, but the liability of the employer for the payments of compensation not yet due at the time of the death of such employee shall cease and be abrogated by the employee's death.

(c) The total amount of compensation that may be allowed or awarded an injured employee for all injuries received in any one accident shall in no event exceed the compensation which would be payable under the workers compensation act for 100% permanent total disability resulting from such accident.

(d) Where a minor employee or a minor employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim or cause of action against the employer shall inure or accrue to or exist in favor of the parent or parents of such minor employee on account of any damage resulting to such parent or parents on account of the loss of earnings or loss of service of such minor employee.

(e) In any case of injury to or death of an employee, where the employee or the employee's dependents are entitled to compensation under the workers compensation act, such compensation shall be exclusive of all other remedies or causes of action for such injury or death, and no claim or action shall inure, accrue to or exist in favor of the surviving spouse or any relative or next of kin of such employee against such employer on account of any damage resulting to such surviving spouse or any relative or next of kin on account of the loss of earnings, services, or society of such employee or on any other account resulting from or growing out of the injury or death of such employee.

Sec. 8. K.S.A. 44-510f is hereby amended to read as follows: 44-510f. (a) Notwithstanding any provision of the workers compensation act to the contrary, the maximum compensation benefits payable by an employer shall not exceed the following:

(1) For permanent total disability, including temporary total, temporary partial, permanent partial and temporary partial disability payments paid or due, ~~$155,000~~ *$400,000* for an injury;

(2) for temporary total disability, including any prior permanent total, permanent partial or temporary partial disability payments paid or due, ~~$130,000~~ *$225,000* for an injury;

(3) subject to the provisions of subsection (a)(4), for permanent or temporary partial disability, including any prior temporary total, perma-

nent total, temporary partial, or permanent partial disability payments paid or due, ~~$130,000~~ *$225,000* for an injury; and

(4) for permanent partial disability, where functional impairment only is awarded, ~~$75,000~~ *$100,000* for an injury. The ~~$75,000~~ *$100,000* cap contained in this subsection shall apply whether or not temporary total disability or temporary partial disability benefits were paid.

(b) *The maximum compensation benefits payable as provided by subsection (a)(1) through (4) shall remain in effect until June 30, 2027. Beginning on July 1, 2027, and each July 1 thereafter, the maximum compensation benefits payable pursuant to subsection (a)(1) through (4) shall be adjusted to reflect changes in the state average weekly wage. To determine the yearly adjustment, the director shall determine the percentage of change in the state average weekly wage determined for the current year pursuant to K.S.A. 44-704, and amendments thereto, and as the percentage change in the state average weekly wage for each of the prior four years. Each year's percentage change in the state average weekly wage shall be added together. The sum shall then be divided by five to arrive at the average percentage change over the five-year period. The maximum compensation benefits payable shall then be adjusted by such average percentage change.*

(c) If an employer shall voluntarily pay unearned wages to an employee in addition to any amount of disability benefits to which the employee is entitled under the workers compensation act, the excess amount paid:

(1) Shall be allowed as a credit to the employer in any final settlement~~,~~*;* or

(2) may be withheld from the employee's wages in weekly amounts equal to the weekly amount or amounts paid in excess of compensation due. The excess amount paid may only be withheld from the employee's wages if the employee's average weekly wage for the calendar year exceeds 125% of the state's average weekly wage, determined as provided in K.S.A. 44-511, and amendments thereto.

Sec. 9. K.S.A. 44-510h is hereby amended to read as follows: 44-510h. (a) It shall be the duty of the employer to provide the services of a healthcare provider and such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, apparatus and transportation to and from the home of the injured employee to a place outside the community in which such employee resides and within such community if the director, in the director's discretion, so orders, including transportation expenses computed in accordance with K.S.A. 44-515(a), and amendments thereto, as may be reasonably necessary to cure and relieve the employee from the effects of the injury.

(b) (1) If the director finds, upon application of an injured employee, that the services of the healthcare provider furnished as provided in

subsection (a) and rendered on behalf of the injured employee are not satisfactory, the director may authorize the appointment of some other healthcare provider. In any such case, the employer shall submit the names of two healthcare providers who, if possible given the availability of local healthcare providers, are not associated in practice together. The injured employee may select one from the list who shall be the authorized treating healthcare provider. If the injured employee is unable to obtain satisfactory services from any of the healthcare providers submitted by the employer under this paragraph, either party or both parties may request the director to select a treating healthcare provider.

(2) Without application or approval, an employee may consult a healthcare provider of the employee's choice for the purpose of examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such healthcare provider up to a total amount of ~~$500~~ *$800*. The amount allowed for such examination, diagnosis or treatment shall not be used to obtain a functional impairment rating. Any medical opinion obtained in violation of this prohibition shall not be admissible in any claim proceedings under the workers compensation act.

(c) An injured employee whose injury or disability has been established under the workers compensation act may rely, if done in good faith, solely or partially on treatment by prayer or spiritual means in accordance with the tenets of practice of a church or religious denomination without suffering a loss of benefits subject to the following conditions:

(1) The employer or the employer's insurance carrier agrees thereto in writing either before or after the injury;

(2) the employee submits to all physical examinations required by the workers compensation act;

(3) the cost of such treatment shall be paid by the employee unless the employer or insurance carrier agrees to make such payment;

(4) the injured employee shall be entitled only to benefits that would reasonably have been expected had such employee undergone medical or surgical treatment; and

(5) the employer or insurance carrier that made an agreement under paragraph (1) or (3) may withdraw from the agreement on 10 days' written notice.

(d) In any employment to which the workers compensation act applies, the employer shall be liable to each employee who is employed as a duly authorized law enforcement officer, firefighter, an emergency medical service provider as defined in K.S.A. 65-6112, and amendments thereto, or a member of a regional emergency medical response team as provided in K.S.A. 48-928, and amendments thereto, including any person who is serving on a volunteer basis in such capacity, for all reasonable and necessary preventive medical care and treatment for hepatitis to

which such employee is exposed under circumstances arising out of and in the course of employment.

(e) *(1)* It is presumed that the employer's obligation to provide the services of a healthcare provider and such medical, surgical and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, apparatus and transportation to and from the home of the injured employee to a place outside the community in which such employee resides and within such community if the director, in the director's discretion, so orders, including transportation expenses computed in accordance with K.S.A. 44-515(a), and amendments thereto, shall terminate upon the employee reaching maximum medical improvement. ~~Such~~

(2) If the employee has undergone an invasive or surgical procedure or an authorized treating healthcare provider recommends that the employee will need an invasive or surgical procedure in the future, the presumption *in subsection (e)(1) as to termination of the right to medical treatment* may be overcome with ~~medical~~ evidence that it is more probably true than not that ~~additional~~ *future* medical treatment will be ~~necessary~~ *needed* after ~~such time as~~ the employee reaches maximum medical improvement.

(3) In all other cases, such presumption to terminate the right to medical treatment provided by the employer may be overcome only with clear and convincing evidence of the need for future medical treatment.

(4) As used in this subsection, "medical treatment" means only that treatment provided or prescribed by a licensed healthcare provider and shall not include home exercise programs or over-the-counter medications.

Sec. 10. K.S.A. 44-510k is hereby amended to read as follows: 44-510k. (a) (1) At any time after the entry of an award for compensation wherein future medical benefits were awarded, the employee, employer or insurance carrier may make application for a hearing, in such form as the director may require for the furnishing, termination or modification of medical treatment. Such post-award hearing shall be held by the assigned administrative law judge, in any county designated by the administrative law judge, and the judge shall conduct the hearing as provided in K.S.A. 44-523, and amendments thereto.

(2) *Proceedings for post-award medical benefits shall proceed only under the provisions set forth in this section. Post-award medical benefits shall not be pursued or ordered under the procedures set forth in K.S.A. 44-534a, and amendments thereto.*

(3) The administrative law judge ~~can~~ *may:*

(A) make an award for further medical care if the administrative law judge finds that it is more probably true than not that the injury which was the subject of the underlying award is the prevailing factor in the need for further medical care and that the care requested is necessary to cure or relieve the effects of such injury, or

(B) terminate or modify an award of current or future medical care if the administrative law judge finds that no further medical care is required, the injury which was the subject of the underlying award is not the prevailing factor in the need for further medical care, or that the care requested is not necessary to cure or relieve the effects of such injury.

~~(3)~~*(4)* If the claimant has not received medical treatment, as defined in ~~subsection (e) of~~ K.S.A. 44-510h*(e)*, and amendments thereto, from an authorized ~~health care~~ *healthcare* provider within two years from the date of the award or two years from the date the claimant last received medical treatment from an authorized ~~health care~~ *healthcare* provider, the employer shall be permitted to make application under this section for permanent termination of future medical benefits. In such case, there shall be a presumption that no further medical care is needed as a result of the underlying injury. The presumption may be overcome by competent medical evidence.

~~(4)~~*(5)* No post-award benefits shall be ordered, modified or terminated without giving all parties to the award the opportunity to present evidence, including taking testimony on any disputed matters. A finding with regard to a disputed issue shall be subject to a full review by the board under ~~subsection (b) of~~ K.S.A. 44-551*(b)*, and amendments thereto. Any action of the board pursuant to post-award orders shall be subject to review under K.S.A. 44-556, and amendments thereto.

(b) *(1)* Any application for hearing made pursuant to this section shall receive priority setting by the administrative law judge, only superseded by preliminary hearings pursuant to K.S.A. 44-534a, and amendments thereto.

(2) The application for hearing pursuant to this section shall, with specificity, identify the post-award medical benefit being sought. If the employer or insurance carrier provides the requested benefit within 30 days of receipt of the application, it shall be presumed that no costs or attorney fees shall be awarded. Such presumption may be overcome by clear and convincing evidence that the attorney pursuing post-award medical benefits expended significant time or resources in obtaining such benefits.

(3) The parties shall meet and confer prior to the hearing pursuant to this section, but a prehearing settlement conference shall not be necessary. The administrative law judge shall have authority to award medical treatment relating back to the entry of the underlying award, but in no event shall such medical treatment relate back more than six months following the filing of such application for post-award medical treatment. Reviews taken under this section shall receive priority settings before the board, only superseded by reviews for preliminary hearings. A decision shall be rendered by the board within 30 days from the time the review ~~hereunder~~ is submitted.

(c) The administrative law judge may award attorney fees and costs on the claimant's behalf consistent with ~~subsection (g) of~~ K.S.A. 44-536*(g)*, and amendments thereto. As used in this subsection, "costs" include, but are not limited to, witness fees, mileage allowances, any costs associated with reproduction of documents that become a part of the hearing record, the expense of making a record of the hearing and such other charges as are by statute authorized to be taxed as costs.

Sec. 11. K.S.A. 44-511 is hereby amended to read as follows: 44-511. (a) As used in this section:

(1) The term "money" shall be construed to mean the gross remuneration, on an hourly, output, salary, commission or other basis earned while employed by the employer, including *sick, vacation or other paid time off,* bonuses and gratuities. Money shall not include any additional compensation, as defined in paragraph (2).

(2) (A) The term "additional compensation" shall include and mean only the following: (i) Board and lodging when furnished by the employer as part of the wages, which shall be valued at a maximum of $25 per week for board and lodging combined, unless the value has been fixed otherwise by the employer and employee prior to the date of the accident or injury, or unless a higher weekly value is proved; and (ii) employer-paid life insurance, disability insurance, health and accident insurance and employer contributions to pension and profit sharing plans.

(B) In no case shall additional compensation include any amounts of employer taxes paid by the employer under the old-age and survivors insurance system embodied in the federal social security system.

(C) Additional compensation shall not be included in the calculation of average wage until and unless such additional compensation is discontinued. If such additional compensation is discontinued subsequent to a computation of average weekly wages under this section, there shall be a recomputation to include such discontinued additional compensation.

(3) The term "wage" shall be construed to mean the total of the money and any additional compensation that the employee receives for services rendered for the employer in whose employment the employee sustains an injury arising out of and in the course of such employment.

(b) (1) Unless otherwise provided, the employee's average weekly wage for the purpose of computing any compensation benefits provided by the workers compensation act shall be the wages the employee earned during the calendar weeks employed by the employer, up to 26 calendar weeks immediately preceding the date of the injury, divided by the number of calendar weeks the employee actually worked, or by 26 as the case may be.

(2) *If the employee worked less than the employee's expected weekly schedule during the first week of employment, such week shall not be included in the calculation of the employee's average weekly wage.*

(3) If actually employed by the employer for less than one calendar week immediately preceding the accident or injury, the average weekly wage shall be determined by the administrative law judge based upon all of the evidence and circumstances, including the usual wage for similar services paid by the same employer, or if the employer has no employees performing similar services, the usual wage paid for similar services by other employers. The average weekly wage so determined shall not exceed the actual average weekly wage the employee was reasonably expected to earn in the employee's specific employment, including the average weekly value of any additional compensation.

~~(3)~~*(4)* The average weekly wage of an employee who performs the same or a very similar type of work on a part-time basis for each of two or more employers, shall be the sum of the average weekly wages of such employee paid by each of the employers.

~~(4)~~*(5)* In determining an employee's average weekly wage with respect to the employer against whom claim for compensation is made, no money or additional compensation paid to or received by the employee from such employer, or from any source other than from such employer, shall be included as wages, except as provided in this section. No wages, other compensation or benefits of any type, except as provided in this section, shall be considered or included in determining the employee's average weekly wage.

~~(5)~~*(6)* (A) The average weekly wage of a person serving on a volunteer basis as a duly authorized law enforcement officer, emergency medical service provider as provided in K.S.A. 44-508, and amendments thereto, firefighter or member of a regional emergency medical response team as provided in K.S.A. 48-928, and amendments thereto, who receives no wages for such services, or who receives wages that are substantially less than the usual wages paid for such services by comparable employers to employees who are not volunteers, shall be computed on the basis of the dollar amount closest to, but not exceeding, 112½% of the state average weekly wage.

(B) The average weekly wage of any person performing community service work shall be deemed to be $37.50.

(C) The average weekly wage of a volunteer member of the Kansas department of civil air patrol officially engaged in the performance of functions specified in K.S.A. 48-3302, and amendments thereto, shall be deemed to be $476.38. Whenever the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for payroll periods chargeable to fiscal years commencing after June 30, 1988, the average weekly wage that is deemed to be the average weekly wage under the provisions of this subsection for a volunteer member of the Kansas department of civil air patrol shall be increased by

an amount, adjusted to the nearest dollar, computed by multiplying the average of the percentage increases in all monthly steps of such pay plan by the average weekly wage deemed to be the average weekly wage of such volunteer member under the provisions of this subsection prior to the effective date of such increase in the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act.

(D) The average weekly wage of any other volunteer under the workers compensation act, who receives no wages for such services, or who receives wages that are substantially less than the usual wages paid for such services by comparable employers to employees who are not volunteers, shall be computed on the basis of the usual wages paid by the employer for such services to employees who are not volunteers, or, if the employer has no employees performing such services for wages who are not volunteers, the average weekly wage shall be computed on the basis of the usual wages paid for such services by comparable employers to employees who are not volunteers. Volunteer employment is not presumed to be full-time employment.

(c) The state's average weekly wage for any year shall be the average weekly wage paid to employees in insured work subject to Kansas employment security law as determined annually by the secretary of labor as provided in K.S.A. 44-704, and amendments thereto.

(d) Members of a labor union or other association who perform services on behalf of the labor union or other association and who are not paid as full-time employees of the labor union or other association and who are injured or suffer occupational disease in the course of the performance of duties on behalf of the labor union or other association shall recover compensation benefits under the workers compensation act from the labor union or other association if the labor union or other association files an election with the director to bring its members who perform such services under the coverage of the workers compensation act. The average weekly wage for the purpose of this subsection shall be based on what the employee would earn in the employee's general occupation if at the time of the injury the employee had been performing work in the employee's general occupation. The insurance coverage shall be furnished by the labor union or other association.

Sec. 12. K.S.A. 44-512 is hereby amended to read as follows: 44-512. *(a)* Workers compensation payments shall be made at the same time, place and in the same manner as the wages of the worker were payable at the time of the accident, but upon the application of either party the administrative law judge may modify such requirements in a particular case as the administrative law judge deems just, except that:

~~(a)~~*(1)* Payments from the workers compensation fund established by K.S.A. 44-566a, and amendments thereto, shall be made in the manner approved by the commissioner of insurance;

~~(b)~~*(2)* payments from the state workers compensation self-insurance fund established by K.S.A. 44-575, and amendments thereto, shall be made in a manner approved by the secretary of health and environment; and

~~(c)~~*(3)* whenever temporary total disability compensation is to be paid under the workers compensation act, payments shall be made only in cash, by check or in the same manner that the employee is normally compensated for salary or wages*, or if the parties agree, by electronic funds transfer or a payment card,* and not by any other means, except that any such compensation may be paid by warrant of the director of accounts and reports issued for payment of such compensation from the workers compensation fund or the state workers compensation self-insurance fund under the workers compensation act.

(b) When allowed pursuant to the provisions of subsection (a)(1) through (3), if compensation is being paid by electronic funds transfer to the injured worker's account or compensation is being paid by a payment card issued to the injured worker and the injured worker is represented by an attorney, the employer shall notify the injured worker's attorney each time payment is made.

Sec. 13. K.S.A. 44-515 is hereby amended to read as follows: 44-515. (a) After an employee sustains an injury, the employee shall, upon request of the employer, submit to an examination at any reasonable time and place by any one or more reputable ~~health care~~ *healthcare* providers, selected by the employer, and shall so submit to an examination thereafter at intervals during the pendency of such employee's claim for compensation, upon the request of the employer, but the employee shall not be required to submit to an examination ~~oftener~~ *more* than twice in any one month, unless required to do so in accordance with such orders as may be made by the director. All benefits shall be suspended to an employee who refuses to submit to such examination or examinations until such time as the employee complies with the employer's request. The suspension of benefits shall occur even if the employer is under preliminary order to provide such benefits. Any employee so submitting to an examination or such employee's authorized representative shall upon written request be entitled to receive and shall have delivered to such employee a copy of the ~~health care~~ *healthcare* provider's report of such examination within a reasonable amount of time after such examination~~, which~~. *Such* report shall be identical to the report submitted to the employer. If the employee is notified to submit to an examination before any ~~health care~~ *healthcare* provider in any town or city other than the residence of the employee at the time that the employee received an injury, the employee shall not be required to submit to an examination until such employee has been furnished with sufficient funds to pay for transportation to and from the place of examination at the rate prescribed for compensation of state of-

ficers and employees under K.S.A. 75-3203a, and amendments thereto, for each mile actually and necessarily traveled to and from the place of examination~~,~~ *and* any turnpike or other tolls and any parking fees actually and necessarily incurred~~, and~~. *The employer shall also be responsible for reimbursement of the reasonable expenses for overnight accommodations as needed to avoid undue hardship on the employee.* In addition*, the employer shall be liable for* the sum of ~~$15~~ *$30* per day for each full day that the employee was required to be away from such employee's residence to defray such employee's ~~board and lodging and living~~ *meal* expenses. The employee shall not be liable for any fees or charge of any ~~health care~~ *healthcare* provider selected by the employer for making any examination of the employee. The employer or the insurance carrier of the employer of any employee making claim for compensation under the workers compensation act shall be entitled to a copy of the report of any ~~health care~~ *healthcare* provider who has examined or treated the employee in regard to such claim upon written request to the employee or the employee's attorney within a reasonable amount of time after such examination or treatment~~, which~~. *Such* report shall be identical to the report submitted to the employee or the employee's attorney.

(b) If the employee requests, such employee shall be entitled to have ~~health care~~ *healthcare* providers of such employee's own selection present at the time to participate in such examination.

(c) Unless a report is furnished as provided in subsection (a) and unless there is a reasonable opportunity thereafter for the ~~health care~~ *healthcare* providers selected by the employee to participate in the examination in the presence of the ~~health care~~ *healthcare* providers selected by the employer, the ~~health care~~ *healthcare* providers selected by the employer or employee shall not be permitted afterwards to give evidence of the condition of the employee at the time such examination was made.

(d) Except as provided in this section, there shall be no disqualification or privilege preventing the furnishing of reports by or the testimony of any ~~health care~~ *healthcare* provider who actually makes an examination or treats an injured employee, prior to or after an injury.

(e) Any ~~health care~~ *healthcare* provider's opinion, whether the provider is a treating ~~health care~~ *healthcare* provider or is an examining ~~health care~~ *healthcare* provider, regarding a claimant's need for medical treatment, inability to work, prognosis, diagnosis and disability rating shall be considered and given appropriate weight by the trier of fact together with consideration of all other evidence.

Sec. 14. K.S.A. 44-516 is hereby amended to read as follows: 44-516. (a) ~~In case of a dispute as to the injury,~~ *Prior to the commencement of a prehearing settlement conference as required by K.S.A. 44-523(c), and amendments thereto, if the parties have not agreed upon a neutral*

healthcare examination or a neutral healthcare provider pursuant to subsection (c), the ~~director, in the director's discretion, or upon request of either party,~~ *administrative law judge* may ~~employ~~ *appoint* one ~~or more~~ neutral ~~health care providers, not exceeding three in number~~ *healthcare provider*, who shall be of good standing and ability*, to address diagnosis, treatment recommendations and temporary restrictions of the injury*. The ~~health care providers~~ *neutral healthcare provider selected by the administrative law judge pursuant to this section* shall make such ~~examinations~~ *examination* of the injured employee ~~as the director may direct~~ *and shall issue a written report that shall be admitted into evidence in the matter without additional foundation*. ~~The report of any such health care~~

(b) The appointed neutral healthcare provider shall ~~be considered by the administrative law judge in making the final determination~~ *not address the injured worker's permanent restrictions, impairment, permanent partial disability, job task loss, wage loss or permanent total disability status in any written report pursuant to subsection (a). Nothing in this section shall prevent the appointed neutral healthcare provider from addressing these issues if such healthcare provider is subsequently designated as the authorized treating healthcare provider.*

~~(b) If at least two medical opinions based on competent medical evidence disagree as to the percentage of functional impairment, such matter may~~

(c) Nothing in this section shall prevent the parties from agreeing to a neutral healthcare examination by a neutral healthcare provider who shall be ~~referred by the administrative law judge to an independent health care~~ *appointed by the administrative law judge. The neutral healthcare* provider ~~who shall be~~ agreed upon by the parties *shall issue a written report who shall be admitted into evidence in such matter without additional foundation*. ~~Where the parties cannot agree, an independent healthcare~~

(d) Any charges or costs levied by the neutral healthcare provider ~~shall be selected by the administrative law judge.~~*due to unreasonable late cancellation or missed appointment with* the ~~health care~~ *neutral healthcare* provider ~~agreed to by the parties or selected~~ *may be taxed* by the administrative law judge ~~pursuant to this section shall issue an opinion regarding~~ *against the party responsible for* the ~~employee's functional impairment which shall be considered by the administrative law judge in making the final determination~~ *cancellation or missed appointment*.

Sec. 15. K.S.A. 44-519 is hereby amended to read as follows: 44-519. *(a)* Except in preliminary hearings conducted under K.S.A. 44-534a*,* and amendments thereto*, or as provided by subsection (c), (d), (e) or (f),* no report of any examination of any employee by a ~~health care~~ *healthcare* provider, as provided for in the workers compensation act and no certificate issued or given by the ~~health care~~ *healthcare* provider making such

examination, shall be competent evidence in any proceeding for the determining or collection of compensation unless supported by the testimony of such ~~health care~~ *healthcare* provider, if this testimony is admissible, and shall not be competent evidence in any case where testimony of such ~~health care~~ *healthcare* provider is not admissible.

(b) Except for hearings conducted under K.S.A. 44-534a, and amendments thereto, upon receipt of notice from the division setting a date for hearing of a case, the parties or their attorneys shall arrange, without charge or costs, each to the other, for an exchange of all medical reports, including those made both by treating and examining healthcare providers, to the end that the parties may be commonly informed of all medical findings and opinions. The exchange of medical reports shall be made at least 30 days before the date set for the hearing. The failure of any party to comply may be grounds for the administrative law judge to grant a party's request for additional time to present evidence.

(c) The testimony of a treating or examining healthcare provider may be submitted in evidence on the issues in controversy by a complete medical report and shall be admissible without other foundational evidence subject to compliance with the following procedures:

(1) The party intending to submit the complete medical report in evidence shall give notice to all parties at least 30 days prior to the hearing and shall provide a reasonable opportunity to all parties to cross-examine the healthcare provider who prepared the report within the offering party's terminal date. Each party shall compensate the healthcare provider for the portion of testimony obtained in an amount not to exceed a rate of reasonable compensation consistent with the Kansas medical fee schedule;

(2) the notice required in paragraph (1) shall include a copy of the curriculum vitae of the healthcare provider who prepared the complete medical report, the complete medical report and all the clinical and treatment records of the healthcare provider;

(3) the notice required in paragraph (1) shall also include copies of all records and reports received from any other source including all records and reports of other healthcare providers that the preparer of the complete medical report reviewed and relied upon in issuing the report. The copies of records and reports shall include, but not be limited to, all paper or media documents, videos, transcribed statements or sworn testimony reviewed and relied upon by the preparer of the complete medical report, except that for purposes of this paragraph, the copies of records and reports shall not include X-rays or other diagnostic studies; and

(4) at the request of any party, the party offering a complete medical report in evidence shall also make available copies of X-rays or other diagnostic studies obtained by or relied upon by the healthcare provider.

(d) Any dispute by a party as to whether a complete medical report offered by another party meets the requirements of a complete medical report shall be made within 10 days after receipt of the notice required by subsection (c) by providing written objections to the offering party stating the grounds for the dispute. Upon request of any party, the administrative law judge shall rule upon such objections at the hearing and determine whether the report meets the requirements of a complete medical report and the admissibility of the report. The 10-day rule may be extended for good cause. If no objections are made the report shall be admissible and any objections thereto shall be waived.

(e) Medical records or reports of other healthcare providers that were considered by the preparer of a complete medical report that has been received into evidence may also be admitted without further foundations subject to compliance with the following procedures:

(1) Such medical reports or records of such other healthcare providers have been certified by the offices of such healthcare providers, or the records custodians of such offices, as to the number of pages in the records and that such records are true and correct copies of the original records and are kept in the normal course of business of such healthcare providers; and

(2) the offered medical records or reports are limited to the examination and treatment of the same structure or structures as the injured worker's body part that was alleged to have been injured as a result of the work accident or repetitive trauma.

(f) Nothing in this section shall prevent the parties from agreeing to admit medical reports or records by consent.

Sec. 16. K.S.A. 44-520 is hereby amended to read as follows: 44-520. (a) (1) Proceedings for compensation under the workers compensation act shall not be maintainable unless notice of injury by accident or repetitive trauma is given to the employer, *either orally or in writing as provided by paragraph (2) or (3),* by the earliest of the following dates:

(A) ~~20~~*30* calendar days from the date of accident or the date of injury by repetitive trauma; *or*

(B) ~~if the employee is working for the employer against whom benefits are being sought and such employee seeks medical treatment for any injury by accident or repetitive trauma, 20 calendar days from the date such medical treatment is sought; or~~

~~(C)~~ if the employee no longer ~~works for~~ *is employed with* the employer against whom benefits are ~~being~~ sought, ~~10~~ *20* calendar days after the employee's last day of ~~actual work for~~ *employment with* the employer.

~~Notice may be given orally or in writing.~~

(2) Where notice is provided orally, if the employer has designated an individual or department to whom notice must be given and such designation has been communicated in writing to the employee, notice to any

other individual or department shall be insufficient under this section. If the employer has not designated an individual or department to whom notice must be given, notice must be provided to a supervisor or manager.

(3) Where notice is provided in writing, notice must be sent to a supervisor or manager at the employee's principal location of employment. The burden shall be on the employee to prove that such notice was actually received by the employer.

(4) The notice, whether provided orally or in writing, shall include the time, date, place, person injured and particulars of such injury. It must be apparent from the content of the notice that the employee is claiming benefits under the workers compensation act or has suffered a work-related injury.

(b) The notice required by subsection (a) shall be waived if the employee proves that:

(1) The employer or the employer's duly authorized agent had actual knowledge of the injury;

(2) the employer or the employer's duly authorized agent was unavailable to receive such notice within the applicable period as provided in ~~paragraph (1) of subsection (a)~~ *subsection (a)(1)(A) or (B)*; or

(3) the employee was physically unable to give such notice.

(c) For the purposes of calculating the notice period proscribed in ~~subsection (a)~~ *subsection (a)(1)(A) or (B)*, weekends shall be included.

Sec. 17. K.S.A. 44-523 is hereby amended to read as follows: 44-523. (a) The director, administrative law judge or board shall not be bound by technical rules of procedure, but shall give the parties reasonable opportunity to be heard and to present evidence, ensure the employee and the employer an expeditious hearing and act reasonably without partiality.

(b) Whenever a party files an application for ~~hearing~~ *benefits* pursuant to K.S.A. 44-534, and amendments thereto, the matter shall be assigned to an administrative law judge for hearing and the administrative law judge shall set a terminal date to require the claimant to submit all evidence in support of the claimant's claim no later than 30 days after the first full hearing before the administrative law judge and to require the respondent to submit all evidence in support of the respondent's position no later than 30 days thereafter. An extension of the foregoing time limits shall be granted if all parties agree. An extension of the foregoing time limits may also be granted:

(1) If the employee is being paid temporary or permanent total disability compensation;

(2) for medical examination of the claimant if the party requesting the extension explains in writing to the administrative law judge facts showing that the party made a diligent effort but was unable to have a medical examination conducted prior to the submission of the case by the claimant

but then only if the examination appointment was set and notice of the appointment sent prior to submission by the claimant; or

(3) on application for good cause shown.

(c) When all parties have submitted the case to an administrative law judge for an award, the administrative law judge shall issue an award within 30 days. The administrative law judge shall not stay a decision due to the absence of a submission letter. When the award is not entered in 30 days, any party to the action may notify the director that an award is not entered and the director shall assign the matter to an assistant director or to a special administrative law judge who shall enter an award forthwith based on the evidence in the record, or the director, on the director's own motion, may remove the case from the administrative law judge who has not entered an award within 30 days following submission by the party and assign it to an assistant director or to a special administrative law judge for immediate decision based on the evidence in the record.

(d) Not less than 10 days prior to the first full hearing before an administrative law judge, the administrative law judge shall conduct a prehearing settlement conference for the purpose of obtaining stipulations from the parties, determining the issues and exploring the possibility that the parties may resolve those issues and reach a settlement prior to the first full hearing.

(e) (1) If a party or a party's attorney believes that the administrative law judge to whom a case is assigned cannot afford that party a fair hearing in the case, the party or attorney may file a motion for change of administrative law judge. A party or a party's attorney shall not file more than one motion for change of administrative law judge in a case. The administrative law judge shall promptly hear the motion informally upon reasonable notice to all parties who have appeared in the case. Notwithstanding the provisions of K.S.A. 44-552, and amendments thereto, the administrative law judge shall decide, in the administrative law judge's discretion, whether or not the hearing of such motion shall be taken down by a certified shorthand reporter. If the administrative law judge disqualifies the administrative law judge's self, the case shall be assigned to another administrative law judge by the director. If the administrative law judge refuses to disqualify the administrative law judge's self, the party seeking a change of administrative law judge may, within 10 days of the refusal, file an appeal with the workers compensation *appeals* board.

(2) The party or a party's attorney shall file with the workers compensation *appeals* board an affidavit alleging one or more of the grounds specified in subsection (e)*(4)*.

(3) If a majority of the workers compensation *appeals* board finds legally sufficient grounds, it shall direct the director to assign the case to another administrative law judge.

(4) Grounds which may be alleged as provided in subsection (e)(2) for change of administrative law judge are that:

(A) The administrative law judge has been engaged as counsel in the case prior to the appointment as administrative law judge.

(B) The administrative law judge is otherwise interested in the case.

(C) The administrative law judge is related to either party in the case.

(D) The administrative law judge is a material witness in the case.

(E) The party or party's attorney filing the affidavit has cause to believe and does believe that on account of the personal bias, prejudice or interest of the administrative law judge such party cannot obtain a fair and impartial hearing. Such affidavit shall state the facts and the reasons for the belief that bias, prejudice or an interest exists.

(5) In any affidavit filed pursuant to subsection (e)(2), the recital of previous rulings or decisions by the administrative law judge on legal issues or concerning prior motions for change of administrative law judge filed by counsel or such counsel's law firm, pursuant to this subsection, shall not be deemed legally sufficient for any belief that bias or prejudice exists.

(6) Notwithstanding the provisions of K.S.A. 44-556, and amendments thereto, no interlocutory appeal to the court of appeals of the workers compensation appeals board's decision regarding recusal shall be allowed while the resolution of the claim for compensation is pending before an administrative law judge or the workers compensation appeals board.

(f) (1) In any claim that has not proceeded to a regular hearing, a settlement hearing, or an agreed award under the workers compensation act within three years from the date of filing an application for hearing pursuant to K.S.A. 44-534, and amendments thereto, the employer shall be permitted to file with the division an application for dismissal based on lack of prosecution. The matter shall be set for hearing with notice to the claimant's attorney, if the claimant is represented, or to the claimant's last known address. The administrative law judge may grant an extension for good cause shown, which shall be conclusively presumed in the event that the claimant has not reached maximum medical improvement~~, provided such motion to extend is filed prior to the three year limitation provided for herein~~ *from the work-related injury*. If the claimant cannot establish good cause, the claim shall be dismissed with prejudice by the administrative law judge for lack of prosecution. Such dismissal shall be considered a final disposition at a full hearing on the claim for purposes of employer reimbursement from the fund pursuant to~~ subsection (b) of~~ K.S.A. 44-534a*(b)*, and amendments thereto.

(2) In any claim which has not proceeded to regular hearing within one year from the date of a preliminary award denying compensability of the claim, the employer shall be permitted to file with the division an application for dismissal based on lack of prosecution. The matter shall

be set for hearing with notice to the claimant's attorney, if the claimant is represented, or to the claimant's last known address. Unless the claimant can prove a good faith reason for delay, the claim shall be dismissed with prejudice by the administrative law judge. Such dismissal shall be considered a final disposition at a full hearing on the claim for purposes of employer reimbursement from the fund pursuant to ~~subsection (b) of~~ K.S.A. 44-534a*(b)*, and amendments thereto.

(3) This section shall not affect any future benefits which have been left open upon proper application by an award or settlement.

Sec. 18. K.S.A. 44-525 is hereby amended to read as follows: 44-525. (a) Every finding or award of compensation shall be in writing, signed and acknowledged by the administrative law judge and shall specify the amount due and unpaid by the employer to the employee up to the date of the award, if any, and the amount of the payments thereafter to be paid by the employer to the employee, if any, and the length of time such payment shall continue. No award shall include the right to future medical treatment, unless ~~it is proved by~~ the claimant ~~that it is more probable than not that future medical treatment, as defined in subsection (e)~~ *establishes the requirements* of K.S.A. 44-510h*(e)*, and amendments thereto~~, will be required as a result of the work-related injury~~. The award of the administrative law judge shall be effective the day following the date noted in the award.

(b) No award shall be or provide for payment of compensation in a lump sum, except as to such portion of the compensation as shall be found to be due and unpaid at the time of the award, or except at the discretion of the director on settlement agreements, and credit shall be given to the employer in such award for any amount or amounts paid by the employer to the employee as compensation prior to the date of the award.

(c) In the event the employee has been overpaid temporary total disability benefits as described in ~~subsection (b) of~~ K.S.A. 44-534a*(b)*, and amendments thereto, and the employee is entitled to additional disability benefits, the administrative law judge shall provide for the application of a credit against such benefits. The credit shall first be applied to the final week of any such additional disability benefit award and then to each preceding week until the credit is exhausted.

Sec. 19. K.S.A. 44-526 is hereby amended to read as follows: 44-526. Any award of compensation may be modified by subsequent written agreement of the parties, but no such agreement modifying an award shall be valid as against the ~~workman~~ *claimant* unless such agreement or a copy thereof ~~be~~ *is* filed by the employer in the office of the director within ~~sixty (60)~~ *60* days after the execution of such agreement.

Sec. 20. K.S.A. 44-531 is hereby amended to read as follows: 44-531. (a) Where all parties agree to the payment of all or any part of compensa-

tion due under the workers compensation act or under any award or judgment, and where it has been determined at a hearing *or by approval of terms of a settlement award on written stipulation pursuant to subsection (d)* before the administrative law judge that it is for the best interest of the injured employee or the dependents of a deceased employee, or that it will avoid undue expense, litigation or hardship to any party or parties, the administrative law judge may permit the employer to redeem all or any part of the employer's liability under the workers compensation act by the payment of compensation in a lump-sum. The employer shall be entitled to an 8% discount except as provided in ~~subsection (a) of~~ K.S.A. 44-510b*(a)*, and amendments thereto, on the amount of any such lump-sum payment that is not yet due at the time of the award. Upon paying such lump-sum the employer shall be released and discharged of and from all liability under the workers compensation act for that portion of the employer's liability redeemed under this section.

(b) No lump-sum awards, unless agreed to by the parties, shall be rendered under the workers compensation act except: (1) As provided in subsection (a) of this section, (2) as provided ~~in subsection (a)~~K.S.A. 44-510b*(a)*, and amendments thereto, (3) in cases involving compensation due the employee at the time the award is rendered as provided in K.S.A. 44-525, and amendments thereto, and in cases of past due compensation as provided in K.S.A. 44-529, and amendments thereto.

(c) The parties, by agreement and with approval of an administrative law judge, may enter into a compromise lump-sum settlement in either permanent total or permanent partial disability cases which prorates the lump-sum settlement over the life expectancy of the injured worker. When such an agreement has been approved, neither the weekly compensation rate paid throughout the case nor the maximum statutory weekly rate applicable to the injury shall apply. No compensation rate shall exceed the maximum statutory weekly rate as of the date of the injury. Instead, the prorated rate set forth in the approved settlement documents shall control and become the rate for that case. This section shall be retroactive in effect.

(d) When both parties are represented by legal counsel and the claimant is over 18 years of age, a settlement may occur by settlement award on written stipulation on a form established by the director of workers compensation. The administrative law judge assigned to the matter shall approve or reject the settlement award on written stipulations within five business days of the electronic filing of the settlement award by the parties.

Sec. 21. K.S.A. 44-534a is hereby amended to read as follows: 44-534a. (a) (1) After an application for a hearing has been filed pursuant to K.S.A. 44-534, and amendments thereto, the employee or the employer may make application for a preliminary hearing, in such form as the direc-

tor may require, on the issues of the furnishing of medical treatment and the payment of temporary total or temporary partial disability compensation. At least seven days prior to filing an application for a preliminary hearing, the applicant shall give written notice to the adverse party of the intent to file such an application. Such notice of intent shall contain a specific statement of the benefit change being sought that is to be the subject of the requested preliminary hearing. If the parties do not agree to the change of benefits within the seven-day period, the party seeking a change in benefits may file an application for preliminary hearing which shall be accompanied by a copy of the notice of intent and the applicant's certification that the notice of intent was served on the adverse party or that party's attorney and that the request for a benefit change has either been denied or was not answered within seven days after service. Copies of medical reports or other evidence which the party intends to produce as exhibits supporting the change of benefits shall be included with the application. The director shall assign the application to an administrative law judge who shall set the matter for a preliminary hearing and shall give at least seven days' written notice by mail to the parties of the date set for such hearing.

(2) *Upon receipt of notice of hearing from the division of workers compensation setting a date for preliminary hearing, the parties or their attorneys shall arrange, without charge or costs, each to the other, for an exchange of all medical reports, including those made by healthcare providers, to the end that the parties may be commonly informed of all medical findings and opinions. The exchange of medical reports shall be made at least 20 days before the date of the preliminary hearing. The failure of any party to comply may be grounds for the administrative law judge to grant a party's request for additional time to present evidence.*

(3) Such preliminary hearing shall be summary in nature and shall be held by an administrative law judge in any county designated by the administrative law judge, and the administrative law judge shall exercise such powers as are provided for the conduct of full hearings on claims under the workers compensation act. Upon a preliminary finding that the injury to the employee is compensable and in accordance with the facts presented at such preliminary hearing, the administrative law judge may make a preliminary award of medical compensation and temporary total disability compensation to be in effect pending the conclusion of a full hearing on the claim, except that if the employee's entitlement to medical compensation or temporary total disability compensation is disputed or there is a dispute as to the compensability of the claim, no preliminary award of benefits shall be entered without giving the employer the opportunity to present evidence, including testimony, on the disputed issues. A finding with regard to a disputed issue of whether the employee suffered an accident, repetitive trau-

ma or resulting injury, whether the injury arose out of and in the course of the employee's employment, whether notice is given, or whether certain defenses apply, shall be considered jurisdictional, and subject to review by the board. Such review by the board shall not be subject to judicial review. If an appeal from a preliminary order is perfected under this section, such appeal shall not stay the payment of medical compensation and temporary total disability compensation from the date of the preliminary award. If temporary total compensation is awarded, such compensation may be ordered paid from the date of filing the application, except that if the administrative law judge finds from the evidence presented that there were one or more periods of temporary total disability prior to such filing date, temporary total compensation may be ordered paid for all periods of temporary total disability prior to such date of filing. The decision in such preliminary hearing shall be rendered within five days of the conclusion of such hearing. Except as provided in this section, no such preliminary findings or preliminary awards shall be appealable by any party to the proceedings, and the same shall not be binding in a full hearing on the claim, but shall be subject to a full presentation of the facts.

(b) If compensation in the form of medical benefits or temporary total disability benefits has been paid by the employer or the employer's insurance carrier either voluntarily or pursuant to an award entered under this section and, upon a full hearing on the claim, the amount of compensation to which the employee is entitled is found to be less than the amount of compensation paid or is totally disallowed, the employer and the employer's insurance carrier shall be reimbursed from the workers compensation fund established in K.S.A. 44-566a, and amendments thereto, for all amounts of compensation so paid which are in excess of the amount of compensation the employee is entitled to less any amount deducted from additional disability benefits due the employee pursuant to ~~subsection (c) of~~ K.S.A. 44-525*(c)*, and amendments thereto, as determined in the full hearing on the claim. The director shall determine the amount of compensation paid by the employer or insurance carrier which is to be reimbursed under this subsection, and the director shall certify to the commissioner of insurance the amount so determined. Upon receipt of such certification, the commissioner of insurance shall cause payment to be made to the employer or the employer's insurance carrier in accordance therewith. No reimbursement shall be certified unless the request is made by the employer or employer's insurance carrier within one year of the final award.

(c) A party seeking post-award medical benefits shall not be permitted to use the procedures allowed by this section.

Sec. 22. K.S.A. 44-552 is hereby amended to read as follows: 44-552. (a) The director with the approval of the secretary of labor shall at each

hearing under the workers compensation act appoint a certified shorthand reporter, who may be within the classified service of the Kansas civil service act, to attend each hearing where testimony is introduced, and preserve a complete record of all oral or documentary evidence introduced and all proceedings had at such hearing unless such appointment is waived by mutual agreement. *In the alternative, the director may cause such hearings to be recorded by digital recording or other comparable means.* At the conclusion of the hearing in any case, if neither party has requested opportunity to file briefs, the administrative law judge may read into the record for certification and filing in the office of the director such stipulations, findings, rulings or orders the administrative law judge deems expedient to the early disposition of the case. If the administrative law judge uses such procedure, with the consent of the parties, no transcript of the record of the hearing shall be made, except that part which is read into the record by the administrative law judge.

(b) All testimony introduced and proceedings had in hearings shall be taken down by the certified shorthand reporter~~, and~~ *or recorded digitally or by other comparable means.* If an action for review is commenced or if the director, or either party or the best interests of the administration of justice, so instructs, the certified shorthand reporter shall transcribe the certified shorthand reporter's notes of such hearing. *If such hearing was recorded by digital recording or other comparable means, a certified shorthand reporter or notary public shall transcribe the recording and attest to its accuracy.* If an action for review is commenced, the cost of preparing a transcript shall be paid as provided by K.S.A. 77-620, and amendments thereto. If no action for review is commenced, the cost of preparing a transcript shall be taxed as costs in the case at the discretion of the director in accordance with fair and customary rates charged in the state of Kansas. All official notes of such certified shorthand reporters *or digital recordings or recordings by other comparable means* shall be preserved and filed in the office of the director. Any transcript prepared as above provided and duly certified shall be received as evidence by the board and by any court with the same effect as if the certified shorthand reporter *or notary* were present and testified to the records so certified.

(c) The director or administrative law judge, whoever is conducting the hearing, may make the findings, awards, decisions, rulings or modifications of findings or awards and do all acts at any time without awaiting the transcription of the testimony of the certified shorthand reporter *or notary* if the director or administrative law judge deems it expedient and advisable to do so.

(d) The certified short hand reporter's fee shall be taxed~~ to the division of workers compensation~~ *as costs* if a fee is incurred and no record is taken.

Sec. 23. K.S.A. 44-566a is hereby amended to read as follows: 44-566a. (a) There is hereby created in the state treasury the workers compensation fund. The commissioner of insurance shall be responsible for administering the workers compensation fund, and all payments from the workers compensation fund shall be upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of insurance or a person or persons designated by the commissioner. The commissioner of insurance annually shall report to the governor and the legislature the receipts and disbursements from the workers compensation fund during the preceding fiscal year.

(b) (1) On June 1 of each year, the commissioner of insurance shall impose an assessment against all insurance carriers, self-insurers and group-funded workers compensation pools insuring the payment of compensation under the workers compensation act, and the same shall be due and payable to the commissioner on the following July 1, the proceeds of which shall be credited to the workers compensation fund. The total amount of each such assessment shall be equal to an amount sufficient, in the opinion of the commissioner of insurance, to pay all amounts, including attorney fees and costs, which may be required to be paid from such fund during the current fiscal year, less the amount of the estimated unencumbered balance in the workers compensation fund as of the June 30 immediately preceding the date the assessment is due and payable under this section. The total amount of each such assessment shall be apportioned among those upon whom it is imposed, such that each is assessed an amount that bears the same relation to such total assessment as the amount of money paid or payable in workers compensation claims by such insurance carrier, self-insurer or group-funded workers compensation pool in the immediately preceding calendar year bears to all such claims paid or payable during such calendar year. The commissioner of insurance may establish experience-based rates of assessments under this subsection and make adjustments in the assessments imposed under this subsection based on the success of accident prevention programs under K.S.A. 44-5,104, and amendments thereto, and other employer safety programs.

(2) The commissioner of insurance shall remit all moneys received by or for such commissioner 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 workers compensation fund.

(c) (1) Whenever the workers compensation fund may be made liable for the payment of any amounts in proceedings under the workers compensation act, the commissioner of insurance, in the capacity of admin-

istrator of such fund, shall be impleaded in such proceedings and shall represent and defend the workers compensation fund. The commissioner of insurance shall be deemed impleaded in any such proceedings whenever written notice of the proceedings setting forth the nature of the liability asserted against the workers compensation fund, is given to the commissioner of insurance. The commissioner of insurance may be made a party in this manner by any party to the proceedings. A copy of the written notice shall be given to the director and to all other parties to the proceedings.

(2) *If the workers compensation fund has been impleaded in a proceeding as provided by paragraph (1) and the fund has reasonable belief that the liability for the injured worker's benefits should be covered by a principal, as set forth in K.S.A. 44-503, and amendments thereto, the fund shall be permitted to file an application to implead the principal as a party in the proceeding. The fund's application to implead shall be heard within 60 days from the date that the principal is notified of the fund's application to implead.*

(3) The administrative law judge shall dismiss the workers compensation fund from any proceeding where the administrative law judge has determined that there is insufficient evidence to indicate involvement by the workers compensation fund.

~~(3)~~*(4)* In any case in which the workers compensation fund has been impleaded by the employer or insurance carrier and where an award has been entered deciding all of the issues in the employee's claim against the employer, but not deciding the issues between the employer and the fund, the fund may file an application with the administrative law judge requesting that the fund be dismissed from the case with prejudice. The employer shall have a period of six months from the filing of the application in which to complete the employer's evidence on the fund issues and submit the case to the administrative law judge for decision. The fund shall then have a period of 60 days after the submission of the employer's evidence to submit its own evidence concerning the fund issues in the case. If the employer fails to do so, the administrative law judge shall dismiss the fund from the case with prejudice on the judge's own motion.

(d) The commissioner of insurance, in the capacity of administrator of the workers compensation fund, may make settlements of any amounts which may be payable from the workers compensation fund with regard to any claim under the workers compensation act, subject to the approval of the director.

(e) The workers compensation fund shall be liable for:

(1) Payment of awards to handicapped employees in accordance with the provisions of K.S.A. 44-569, and amendments thereto, for claims arising prior to July 1, 1994;

(2) payment of workers compensation benefits to an employee who is unable to receive such benefits from such employee's employer under the conditions prescribed by K.S.A. 44-532a, and amendments thereto;

(3) reimbursement of an employer or insurance carrier pursuant to the provisions of K.S.A. 44-534a, and amendments thereto, ~~subsection (d) of~~ K.S.A. 44-556*(d)*, and amendments thereto, ~~subsection (c) of~~ K.S.A. 44-569*(c)*, and amendments thereto, and K.S.A. 44-569a, and amendments thereto;

(4) payment of the actual expenses of the commissioner of insurance which are incurred for administering the workers compensation fund, subject to the provisions of appropriations acts; and

(5) any other payments or disbursements provided by law.

(f) If it is determined that the workers compensation fund is not liable as described in subsection (e), attorney fees incurred by the workers compensation fund may be assessed against the party who has impleaded the workers compensation fund other than impleadings pursuant to K.S.A. 44-532a, and amendments thereto.

(g) The commissioner of insurance shall provide for the implementation of the workers compensation fund as provided in this section and shall be responsible for ensuring the fund's adequacy to meet and pay claims awarded against it.

(h) The commissioner of insurance shall make an annual report to the legislative coordinating council, senate committee on commerce and house committee on commerce and labor during January of each year. The report shall include recommendations to the legislature on the advisability of continuation or termination of the workers compensation fund or any provisions of the workers compensation act relating thereto, an analysis of the federal Americans with disabilities act and its effect on the workers compensation fund and recommendations on ways to reduce claim and operational costs of the workers compensation fund.

(i) The commissioner of insurance, or the commissioner's designee, shall provide any consulting actuarial firm contracting with the director of workers compensation or the legislative coordinating council with such information or materials pertaining to the workers compensation fund deemed necessary by the actuarial firm for performing the requirements of any actuarial reviews of the workers compensation fund for the director of workers compensation or the legislative coordinating council notwithstanding any confidentiality prohibition, restriction or limitation imposed on such information or materials by any other law. The consulting actuarial firm and all employees and former employees thereof shall be subject to the same duty of confidentiality imposed by law on other persons or state agencies with regard to information and materials so provided and shall be subject to any civil or criminal penalties imposed by law for

violations of such duty of confidentiality. Any reports of the consulting actuarial firm shall be made in a manner in which will not reveal directly or indirectly the name of any persons or entities or individual reserve information involved in claims against the workers compensation fund. Information provided to the actuary shall not be subject to discovery, subpoena or other means of legal compulsion in any civil proceedings and shall be returned by the actuary to the commissioner of insurance.

Sec. 24. K.S.A. 44-501, 44-508, 44-510b, 44-510c, 44-510d, 44-510e, 44-510f, 44-510h, 44-510k, 44-511, 44-512, 44-515, 44-516, 44-519, 44-520, 44-523, 44-525, 44-526, 44-531, 44-534a, 44-552 and 44-566a are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 11, 2024.

CHAPTER 28

SENATE BILL No. 394*

AN ACT concerning consumer protection; relating to internet content that is harmful to minors; requiring age verification for access to such content; providing for civil penalties for violations; establishing a civil cause of action for damages, attorney fees and costs.

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

Section 1. (a) Any commercial entity that knowingly shares or distributes material that is harmful to minors on a website and such material appears on 25% or more of the webpages viewed on such website in any calendar month, or that knowingly hosts such website shall verify that any person attempting to access such website, who is a resident of this state or who is located in this state at the time of such attempted access, is 18 years of age or older. It shall be a violation of this section to allow a person to access such website without verifying such person is 18 years of age or older. Such age verification shall be conducted through the use of:

(1) A commercially available database that is regularly used by businesses or governmental entities for the purpose of age and identity verification; or

(2) any other commercially reasonable method of age and identity verification.

(b) Any person who was able to access a website without verifying such person's age in violation of this section may report such violation to the attorney general. Upon receipt of any such report, the attorney general shall investigate and may bring an action for injunctive relief to enjoin any continuing violation. In addition to any injunctive relief, such action may also seek to impose a civil penalty on the commercial entity of not less than $500 and not more than $10,000 for each such violation instead of the penalty provided for in K.S.A. 50-636(a), and amendments thereto. Each instance in which a website is accessed in violation of this section shall constitute a separate violation.

(c) Any violation of this section is an unconscionable act and practice under the Kansas consumer protection act.

(d) For purposes of the remedies and penalties provided by the Kansas consumer protection act:

(1) The person alleging a violation of this section shall be deemed a consumer, and the commercial entity that violates this section shall be deemed the supplier; and

(2) proof of a consumer transaction shall not be required.

(e) The parent or legal guardian of a minor, who was able to access a website without verifying such minor's age in violation of this section, may bring a private action against the commercial entity that violates the pro-

visions of this section. Notwithstanding the provisions of K.S.A. 50-634 and 50-636, and amendments thereto, a person bringing such action may seek the following relief:

(1) Actual damages resulting from a minor's access to material that is harmful to a minor;

(2) statutory damages in an amount not less than $50,000; and

(3) reasonable attorney fees and costs.

(f) (1) A commercial entity or third party that performs the required age verification shall not retain any identifying information of the individual after access has been granted to the website.

(2) If a commercial entity is found to have knowingly retained identifying information of an individual after access to a website has been granted to such individual, then such commercial entity shall be liable to such individual for damages resulting from such retention, including reasonable attorney fees and costs as ordered by the court.

(g) Nothing in this section shall be construed to impose an obligation or liability on an internet service provider or the user of an interactive computer service.

(h) As used in this section:

(1) "Commercial entity" means a corporation, partnership, limited liability company, limited liability partnership, limited partnership, sole proprietorship or any other for profit organization.

(2) "Commercially reasonable method of age verification" means:

(A) Any method expressly approved by the attorney general; or

(B) any method that is certified in documented international standards for age verification as specified by the attorney general.

(3) "Harmful to minors" means the same as defined in K.S.A. 21-6402, and amendments thereto.

(4) "Host" means to provide the technology and resources necessary to store and maintain the electronic files and applications associated with a website on a computer server in order for such website to be accessible via the internet. The term "host" does not include an internet service provider.

(5) "Identifying information" means information that personally identifies an individual or that is linked to information that personally identifies an individual, including, but not limited to: (A) First and last name; (B) home address; (C) home telephone or cellphone number; (D) electronic mail address; (E) any other information that allows physical or online contact with the individual; (F) criminal records; (G) medical or other health records; (H) social security number; (I) biometric information; (J) disabilities; (K) socioeconomic information; (L) food purchases; (M) political affiliations; (N) religious information; (O) text messages; (P) documents; (Q) employment identifiers; (R) search activity; (S) photos; (T) voice recordings; or (U) geolocation information.

(6) "Interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(7) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape or video tape.

(8) "Shares or distributes" means to display or present material or make such material available for download, with or without consideration.

(i) The provisions of this section are declared severable. If any provision, clause or subsection of this section or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remainder of this section.

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

Allowed to become law without signature.

(See Messages from the Governor)

CHAPTER 29

SENATE BILL No. 345*

AN ACT concerning financial institutions; enacting the commercial financing disclosure act; requiring the disclosure of certain commercial financing product transaction information; providing for civil penalties; authorizing enforcement of such act by the attorney general.

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

Section 1. (a) The provisions of sections 1 through 5, and amendments thereto, shall be known and may be cited as the commercial financing disclosure act.

(b) As used in the commercial financing disclosure act:

(1) (A) "Account" includes:

(i) A right to payment of a monetary obligation, whether or not earned by performance, for:

(a) Property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of;

(b) services rendered or to be rendered;

(c) a policy of insurance issued or to be issued;

(d) a secondary obligation incurred or to be incurred;

(e) energy provided or to be provided;

(f) the use or hire of a vessel under a charter or other contract;

(g) arising out of the use of a credit card or charge card or information contained on or for the use with such card; or

(h) winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state or person licensed or authorized to operate such lottery or game by a state or governmental unit of a state; and

(ii) healthcare insurance receivables.

(B) "Account" does not include:

(i) Rights to payment evidenced by chattel paper or an instrument;

(ii) commercial tort claims;

(iii) deposit accounts;

(iv) investment property;

(v) letter-of-credit rights or letters of credit; or

(vi) rights to payment for moneys advanced or sold other than rights arising out of the use of a credit card or charge card or information contained on or for use with such card.

(2) "Accounts receivable purchase transaction" means any transaction in which a business forwards or otherwise sells to a provider all or a portion of accounts of such business, cash receipts or payment intangibles at a discount to the expected value of such accounts or payment intangibles. The provider's characterization of an accounts receivable purchase

transaction as a purchase shall be conclusive that such accounts receivable purchase transaction is not a loan or a transaction for the use, forbearance or detention of money.

(3) "Act" means the commercial financing disclosure act.

(4) "Advance fee" means any consideration that is assessed or collected prior to the closing of a commercial financing transaction by a broker.

(5) (A) "Broker" means any person who, for compensation or the expectation of compensation:

(i) Arranges a commercial financing product transaction between a third party that, if executed, such transaction would be binding upon such third party; and

(ii) communicates such transaction to a business in this state.

(iii) "Broker" does not include a provider or any individual or entity whose compensation is not based or dependent upon the terms of the specific commercial financing product obtained or offered.

(6) "Business" means an individual, group of individuals, sole proprietorship, corporation, limited liability company, trust, estate, cooperative, association, limited partnership or general partnership engaged in a business activity.

(7) "Business purpose transaction" means any transaction in which the proceeds resulting therefrom are provided to a business or are intended to be used to carry on a business and are not for personal, family or household purposes. A provider may rely on any written statement of intended purpose signed by a business to determine whether such transaction is a "business purpose transaction". Such written statement may be a separate statement or may be contained in an application, agreement or other document signed by such business or the owner of such business.

(8) "Commercial financing facility" means a provider's plan for purchasing multiple accounts receivable from the recipient over a period of time pursuant to an agreement that sets forth the terms and conditions governing the use of the facility.

(9) "Commercial financing transaction" means any commercial loan, accounts receivable purchase transaction and commercial open-end credit plan when the transaction is a business purpose transaction.

(10) "Commercial loan" means a loan to a business, whether secured or unsecured.

(11) "Commercial open-end credit plan" means commercial financing extended by a provider under a plan in which:

(A) The provider reasonably contemplates repeat transactions; and

(B) subject to any limit set by the provider, the amount of financing that such provider may extend to the business during the term of the plan is made available to the extent that any outstanding balance is repaid.

(12) "Depository institution" means a bank, trust company, industrial loan company, savings and loan association, savings bank or credit union doing business under the authority of a license, certificate or charter issued by the United States, this state or any other state and that is authorized to transact business in this state.

(13) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money and oil, gas or other minerals before extraction. "General intangible" includes payment intangibles and software.

(14) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(15) "Person" means any individual, firm, company, partnership, corporation or association.

(16) "Provider" means a person who consummates more than five commercial financing transactions to a business located in this state in a calendar year. "Provider" includes a person that enters into a written agreement with a depository institution to arrange for the extension of a commercial financing transaction by such depository institution to a business through an online lending platform administered by such person.

Sec. 2. (a) Before, or at the time of, consummating a commercial financing transaction, a provider shall disclose to the business the terms of such commercial financing transaction in accordance with the provisions of this section. Only one disclosure shall be required for each commercial financing transaction and disclosure shall not be required when modification, forbearance or change to a consummated commercial financing transaction occurs.

(b) A provider shall disclose with each commercial financing transaction:

(1) The total amount of funds provided to the business under the terms of such commercial financing transaction. Such disclosure shall be labeled "total amount of funds provided";

(2) the total amount of funds disbursed to such business under the terms of such commercial financing transaction if less than the total amount of funds provided under paragraph (1). Such disclosure shall be labeled "total amount of funds disbursed";

(3) the total amount to be paid to such provider pursuant to such commercial financing transaction agreement. Such disclosure shall be labeled "total of payments";

(4) the total dollar cost of such commercial financing transaction under the terms of the agreement, which shall be determined by subtracting the total amount of funds provided from the total of payments. Such calculation shall include any fees or charges deducted by the provider from

the amount under paragraph (1). Such disclosure shall be labeled "total dollar cost of financing";

(5) the manner, frequency and amount of each payment. Such disclosure shall be labeled "payments". If such payments vary, the provider shall instead disclose the manner, frequency and the estimated amount of the initial payment and shall label such disclosure as "estimated payments." The commercial financing transaction agreement shall include a description of the methodology for calculating any variable payment and the circumstances for when payments may vary; and

(6) a statement of whether there are any costs or discounts associated with prepayment of such commercial financing transaction, including a reference to the paragraph in such agreement that creates the contractual right to prepayment. Such disclosure shall be labeled "prepayment".

(c) A provider that consummates a commercial financing facility may provide disclosures required by this act that are based on an example of a transaction that could occur under the agreement. The example shall be based on an account receivable total face amount owed of $10,000. Only one disclosure is required for each commercial financing facility, and a disclosure is not required as result of a modification, forbearance or change to the facility. A new disclosure is not required each time accounts receivables are purchased under the facility.

Sec. 3. The provisions of this act shall not apply to a:

(a) Provider that is a depository institution or its parent company or a subsidiary or service corporation that is:

(1) Owned and controlled by a depository institution; and

(2) regulated by a federal banking agency;

(b) provider that is a lender regulated under the federal farm credit act, 12 U.S.C. § 2001 et seq.;

(c) commercial financing transaction that is:

(1) Secured by real property;

(2) a lease; or

(3) a purchase money obligation that is incurred as all or part of the price of the collateral or for value given to enable the business to acquire rights in or the use of such collateral if such value is so used;

(d) commercial financing transaction in which the recipient is a motor vehicle dealer or a vehicle rental company, or an affiliate of a motor vehicle dealer or vehicle rental company or an affiliate of such a company pursuant to a commercial loan or commercial open-end credit plan of at least $50,000 or a commercial financing transaction offered by a person in connection with the sale or lease of products or services that such person manufactures, licenses or distributes or whose parent company or any of such parent company's directly or indirectly owned and controlled subsidiaries manufactures, licenses or distributes;

(e) provider that is licensed as a money transmitter in accordance with the Kansas money transmitter act or the law of any other state, district, territory or commonwealth of the United States;

(f) provider that consummates not more than five commercial financing transaction transactions in this state in a 12-month period; or

(g) commercial financing transaction of more than $500,000.

Sec. 4. No broker shall:

(a) Assess, collect or solicit an advance fee from a business to provide services as a broker. Nothing in this subsection shall be construed to preclude a broker from soliciting a potential business to pay for, or preclude a potential business from paying for, actual services necessary to apply for a commercial financing transaction. Such actual services may include, but not be limited to, a credit check or an appraisal of security, where such payment is made by check or money order payable to a party independent of the broker;

(b) make or use any false or misleading representations or omit any material fact in the offer or sale of the services of a broker or engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a broker, notwithstanding the absence of reliance by the buyer; or

(c) make or use any false or deceptive representation in its business dealings.

Sec. 5. (a) Violations of the provisions of this act shall be punishable by a civil penalty of $500 per violation, but not to exceed $20,000 for all aggregated violations. Any person who violates the provisions of this act after receiving written notice of a prior violation from the attorney general shall be punishable by a civil penalty of $1,000 per violation, but not to exceed $50,000 for all aggregated violations.

(b) Violations of this act shall not affect the enforceability or validity of the underlying agreement.

(c) This act shall not create a private right of action against any person based upon compliance or noncompliance with the provisions of this act.

(d) Authority to enforce compliance with this act shall be vested exclusively with the attorney general.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 12, 2024.

CHAPTER 30

SENATE BILL No. 405
(Amended by Chapter 100)

AN ACT concerning the Kansas uniform securities act; relating to violations thereof; holding a control person liable for the violations committed by an individual subject to discipline under the act unless the control person was unaware and could not have reasonably have known of the violations of such individual; amending K.S.A. 17-12a412, 17-12a603 and 17-12a604 and repealing the existing sections.

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

Section 1. K.S.A. 17-12a412 is hereby amended to read as follows: 17-12a412. (a) *Disciplinary conditions–applicants.* An order issued under this act may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative if the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d) against the applicant or, if the applicant is a broker-dealer or investment adviser, against any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) *Disciplinary conditions — registrants.* An order issued under this act may revoke, suspend, condition, or limit the registration of a registrant if the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d) against the registrant or, if the registrant is a broker-dealer or investment adviser, against any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the administrator:

(1) May not institute a revocation or suspension proceeding under this subsection based on an order issued by another state that is reported to the administrator or designee later than one year after the date of the order on which it is based; and

(2) under subsection (d)(5)(A) and *(d)*(5)(B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) *Disciplinary penalties — registrants.* If the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d)(1) through *(d)*(6), *(d)*(8), *(d)*(9), *(d)*(10), *(d)*(12) or *(d)*(13) against a registrant or, if the registrant is a broker-dealer or investment adviser, against any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser, then the administrator may enter

an order against the registrant containing one or more of the following sanctions or remedies:

(1) A censure;

(2) a bar or suspension from association with a broker-dealer or investment adviser registered in this state;

(3) a civil penalty up to $25,000 for each violation. If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed $15,000 for each such violation. The total penalty against a person shall not exceed $1,000,000;

(4) an order requiring the registrant to pay restitution for any loss or disgorge any profits arising from a violation, including, in the administrator's discretion, the assessment of interest from the date of the violation at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto;

(5) an order charging the registrant with the actual cost of an investigation or proceeding; or

(6) an order requiring the registrant to cease and desist from any action that constitutes a ground for discipline, or to take other action necessary or appropriate to comply with this act.

(d) *Grounds for discipline.* A person may be disciplined under subsections (a) through (c) if the person:

(1) Has filed an application for registration in this state under this act or the predecessor act within the previous 10 years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years;

(3) has been convicted of a felony or within the previous 10 years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this act or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(5) is the subject of an order, issued after notice and opportunity for hearing by:

(A) The securities, depository institution, insurance, or other financial services regulator of a state or by the securities and exchange commission or other federal agency denying, revoking, barring, or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;

(B) the securities regulator of a state or by the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser;

(C) the securities and exchange commission or by a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;

(D) a court adjudicating a United States postal service fraud order;

(E) the insurance regulator of a state denying, suspending, or revoking the registration of an insurance agent; or

(F) a depository institution regulator suspending or barring a person from the depository institution business;

(6) is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission, the federal trade commission, a federal depository institution regulator, or a depository institution, insurance, or other financial services regulator of a state that the person willfully violated the securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, the securities or commodities law of a state, or a federal or state law under which a business involving investments, franchises, insurance, banking, or finance is regulated;

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the administrator may not enter an order against an applicant or registrant under this paragraph without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under K.S.A. 17-12a411(d), and amendments thereto, refuses access to a registrant's office to conduct an audit or inspection under K.S.A. 17-12a411(d), and amendments thereto, fails to keep or maintain sufficient records to permit an audit disclosing the condition of the registrant's business, or fails willfully and without cause to comply with a request for information by the administrator or person designated by the administrator in conducting investigations or examinations under this act;

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years;

(10) has not paid the proper filing fee within 30 days after having been notified by the administrator of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

(11) after notice and opportunity for a hearing, has been found within the previous 10 years:

(A) By a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking, or finance is regulated;

(B) to have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative, or similar person; or

(C) to have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction;

(12) is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a state;

(13) has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous 10 years;

(14) is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The administrator may require an applicant for registration under K.S.A. 17-12a402 or 17-12a404, and amendments thereto, who has not been registered in a state within the two years preceding the filing of an application in this state to successfully complete an examination; or

(15) lacks sufficient character or reputation to warrant the public trust.

(e) *Examinations.* A rule adopted or order issued under this act may require that an examination, including an examination developed or approved by an organization of securities regulators, be successfully completed by a class of individuals or all individuals. An order issued under this act may waive, in whole or in part, an examination as to an individual and a rule adopted under this act may waive, in whole or in part, an exam-

ination as to a class of individuals if the administrator determines that the examination is not necessary or appropriate in the public interest and for the protection of investors.

(f) *Summary process.* In accordance with the Kansas administrative procedures act, the administrator may use summary or emergency proceedings to suspend or deny an application; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty or cease and desist order on a registrant before final determination of an administrative proceeding. If a hearing is not requested and none is ordered by the administrator within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(g) *Procedural requirements.* (1) An order issued may not be issued under this section, except under subsection (f), without:

(A) Appropriate notice to the applicant or registrant;

(B) opportunity for hearing; and

(C) findings of fact and conclusions of law in a record.

(2) Proceedings under this subsection shall be conducted in accordance with the Kansas administrative procedures act.

(h) *Control person liability.* A person that controls, directly or indirectly, a person ~~not in compliance with this section~~ *subject to discipline under subsection (d)* may be disciplined by order of the administrator under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of *the* conduct that is a ground for discipline under this section.

(i) *Limit on investigation or proceeding.* The administrator may not institute a proceeding under subsection (a), (b)~~,~~ or (c) based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within one year after the administrator actually acquires knowledge of the material facts.

Sec. 2. K.S.A. 17-12a603 is hereby amended to read as follows: 17-12a603. (a) *Civil action instituted by administrator.* If the administrator believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of this act or a rule adopted or order issued under this act, the administrator may maintain an action in any court of competent jurisdiction to enjoin the act, practice, or course of business and to enforce compliance with this act or a rule adopted or order issued under this act.

(b) *Relief available.* In an action under this section and on a proper showing, the court may:

(1) Issue a permanent or temporary injunction, restraining order, or declaratory judgment;

(2) order other appropriate or ancillary relief, which may include:

(A) An asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator, that may be the administrator, for the defendant or the defendant's assets;

(B) ordering the administrator to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents, and profits; to collect debts; and to acquire and dispose of property;

(C) imposing a civil penalty up to $25,000 for each violation. If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the court may impose an additional penalty not to exceed $15,000 for each such violation. The total penalty against a person shall not exceed $1,000,000;

(D) an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act; and

(E) ordering the payment of prejudgment and postjudgment interest; or

(3) order such other relief as the court considers appropriate.

(c) *No bond required.* The administrator may not be required to post a bond in an action or proceeding under this act.

(d) Control person liability. A person that controls, directly or indirectly, a person who has engaged, is engaging or is about to engage in an act, practice or course of business constituting a violation of this act or a rule adopted or order issued under this act may be subjected to relief under subsection (b) to the same extent as the violating person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of the act, practice or course of business that is a ground for relief under this section.

Sec. 3. K.S.A. 17-12a604 is hereby amended to read as follows: 17-12a604. (a) *Cease and desist order.* If the administrator finds that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act, the administrator may:

(1) Issue an order directing the person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary or appropriate to comply with this act;

(2) issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under K.S.A. 17-12a401(b)(1)(D) or *17-12a401(b)(1)*(F), and amendments thereto, or an investment adviser under K.S.A. 17-12a403(b)(1)(C), and amendments thereto; or

(3) issue an order under K.S.A. 17-12a204, and amendments thereto.

(b) *Additional administrative sanctions and remedies.* If the administrator finds, by written findings of fact and conclusions of law, that a person has violated this act or a rule adopted or order issued under this act, the administrator, in addition to any other power granted under this act, may enter an order against the person containing one or more of the following sanctions or remedies:

(1) A civil penalty up to $25,000 for each violation. If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed $15,000 for each such violation. The total penalty against a person shall not exceed $1,000,000;

(2) a bar or suspension from association with a broker-dealer or investment adviser registered in this state;

(3) an order requiring the person to pay restitution for any loss or disgorge any profits arising from the violation, including, in the administrator's discretion, the assessment of interest from the date of the violation at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto; or

(4) an order charging the person with the actual cost of the investigation or proceeding.

(c) *Procedures for orders.* (1) An order under subsection (b) shall not be entered unless the administrator first provides notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedures act.

(2) An order under subsection (a) is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order. The order must include a statement of the reasons for the order and notice that upon receipt of a written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedures act. If a person subject to the order does not request a hearing and none is ordered by the administrator within 30 days after the date of service of the order, the order becomes final as to that person by operation

of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

(3) An order under subsection (a) may contain a notice of the administrator's intent to seek administrative sanctions or remedies under subsection (b). If the person subject to the order does not request a hearing and none is ordered by the administrator within 30 days after service of the order, the administrator may modify the order to include sanctions or remedies under subsection (b). If a hearing is requested or ordered, the administrator, after notice and opportunity for hearing, shall by written findings of fact and conclusions of law vacate, modify, or make permanent the order, and the administrator may modify the order to include sanctions or remedies under subsection (b).

(d) *Filing of certified final order with court; effect of filing.* If a petition for judicial review of a final order is not filed in accordance with K.S.A. 17-12a609, and amendments thereto, the administrator may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

(e) *Enforcement by court; further civil penalty.* If a person does not comply with an order under this section, the administrator may petition a court of competent jurisdiction to enforce the order. The court may not require the administrator to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may adjudge the person in civil contempt of the order. The court may impose a further civil penalty against the person for contempt in an amount not greater than $25,000 for each violation and may grant any other relief the court determines is just and proper in the circumstances.

(f) Control person liability. A person that controls, directly or indirectly, a person who has violated this act or a rule adopted or order issued under this act may be sanctioned by order of the administrator under subsection (b) to the same extent as the violating person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of the conduct that is a ground for sanctions under this section.

Sec. 4. K.S.A. 17-12a412, 17-12a603 and 17-12a604 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 31

HOUSE BILL No. 2353

AN ACT concerning the care and treatment act for mentally ill persons; increasing the time allowed for an initial continued treatment order; adding criteria to determine when outpatient treatment may be ordered; amending K.S.A. 59-2958, 59-2959 and 59-2969 and K.S.A. 2023 Supp. 59-2967 and repealing the existing sections.

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

Section 1. K.S.A. 59-2958 is hereby amended to read as follows: 59-2958. (a) At the time the petition for the determination of whether a person is a mentally ill person subject to involuntary commitment for care and treatment under this act is filed, or any time thereafter prior to the trial upon the petition as provided for in K.S.A. 59-2965, and amendments thereto, the petitioner may request in writing that the district court issue an ex parte emergency order including either or both of the following:

(1) An order directing any law enforcement officer to take the person named in the order into custody and transport the person to a designated treatment facility or other suitable place willing to receive and detain the person; *or*

(2) an order authorizing any named treatment facility or other place to detain or continue to detain the person until the further order of the court or until the ex parte emergency custody order shall expire.

(b) No ex parte emergency custody order shall provide for the detention of any person at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such admission and detention at a state psychiatric hospital has been filed with the court.

(c) No ex parte emergency custody order shall provide for the detention of any person in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

(d) If no other suitable facility ~~at which~~ *where* such person may be detained is willing to accept the person, then the participating mental health center for that area shall provide a suitable place to detain the person until the further order of the court or until the ex parte emergency custody order shall expire.

(e) An ex parte emergency custody order issued under this section shall expire at 5:00 p.m. of the ~~second~~ *third* day the district court is open for the transaction of business after the date of its issuance~~, which~~ *and the* expiration date shall be stated in the order.

(f) The district court shall not issue successive ex parte emergency custody orders.

(g) In lieu of issuing an ex parte emergency custody order, the court may allow the person with respect to whom the request was made to remain at liberty, subject to such conditions as the court may impose.

Sec. 2. K.S.A. 59-2959 is hereby amended to read as follows: 59-2959. (a) At the time that the petition for determination of mental illness is filed, or any time thereafter prior to the trial upon the petition as provided for in K.S.A. 59-2965, and amendments thereto, the petitioner may request in writing that the district court issue a temporary custody order. The request shall state:

(1) The reasons why the person should be detained prior to the hearing on the petition;

(2) whether an ex parte emergency custody order has been requested or was granted; and

(3) the present whereabouts of the person named in the petition.

(b) Upon the filing of a request for a temporary custody order, the court shall set the matter for a hearing ~~which~~ *that* shall be held not later than the close of business of the ~~second~~ *third* day the district court is open for the transaction of business after the filing of the request. The petitioner and the person with respect to whom the request has been filed shall be notified of the time and place of the hearing and that they shall each be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. If the person with respect to whom the request has been filed has not yet retained or been appointed an attorney, the court shall appoint an attorney for the person.

(c) *(1)* At the hearing scheduled upon the request, the person with respect to whom the request has been filed shall be present unless the attorney for the person requests that the person's presence be waived and the court finds that the person's presence at the hearing would be injurious to the person's welfare. The court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the person at the hearing would be injurious to such person's welfare. However, if the person with respect to whom the request has been filed states in writing to the court or to such person's attorney that such person wishes to be present at the hearing, the person's presence cannot be waived.

(2) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the person with respect to whom the request has been filed. All persons not necessary for the conduct of the proceedings may be excluded. The court shall receive all relevant and material evidence ~~which~~ *that* may be offered. The rules governing evidentiary and procedural matters shall be applied to hearings under this section in a manner so as to facilitate informal, efficient presentation of all relevant, probative evidence and resolution of issues with due regard to the interests of all parties. The facts or data upon which a duly qualified expert bases an opinion or inference may be those perceived by or made known to

the expert at or before the hearing and if of a type reasonably relied upon by experts in their particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence. The expert may testify in terms of opinion or inference and give the expert's reasons therefor without prior disclosure of the underlying facts or data unless the court requires otherwise. If requested on cross-examination, the expert shall disclose the underlying facts or data.

(3) If the petitioner is not represented by counsel, the county or district attorney shall represent the petitioner, prepare all necessary papers, appear at the hearing and present such evidence as the county or district attorney determines to be of aid to the court in determining whether or not there is probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, and that it would be in the best interests of the person to be detained until the trial upon the petition.

(d) After the hearing, if the court determines from the evidence that:

(1) There is probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, and that it is in the best interests of the person to be detained until the trial upon the petition, the court shall issue a temporary custody order;

(2) there is probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, but that it would not be in their best interests to be detained until the trial upon the petition, the court may allow the person to be at liberty, subject to such conditions as the court may impose; *or*

(3) there is not probable cause to believe that the person with respect to whom the request has been filed is a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall terminate the proceedings and release the person.

(e) (1) A temporary custody order issued pursuant to this section may direct any law enforcement officer or any other person designated by the court to take the person named in the order into custody and transport them to a designated treatment facility, and authorize the designated treatment facility to detain and treat the person until the trial upon the petition.

(2) No temporary custody order shall provide for the detention and treatment of any person at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such admission and detention at a state psychiatric hospital has been filed with the court.

(3) No temporary custody order shall provide for the detention of any person in a nonmedical facility used for the detention of persons charged with or convicted of a crime.

(4) If no other suitable facility ~~at which~~ *where* such person may be detained is willing to accept the person, then the participating mental health center for that area shall provide a suitable place to detain the person until the further order of the court or until the trial upon the petition.

Sec. 3. K.S.A. 2023 Supp. 59-2967 is hereby amended to read as follows: 59-2967. (a) An order for outpatient treatment may be entered by the court at any time in lieu of any type of order ~~which~~ *that* would have required inpatient care and treatment if the court finds that the patient ~~is~~*:*

(1) ~~Likely to comply with an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to an outpatient treatment order.~~ *Will meet the criteria for required inpatient care and treatment in the proximate future without such outpatient treatment and is only likely to attend outpatient treatment if there is a court order mandating such treatment; or*

(2) is, if left untreated, reasonably expected to experience an increase in the symptoms caused by the illness that would result in the need for inpatient care and treatment in the proximate future and whose mental illness has previously caused the patient to refuse needed and appropriate mental health services in the community.

(b) No order for outpatient treatment shall be entered unless the head of the outpatient treatment facility has consented to treat the patient on an outpatient basis under the terms and conditions set forth by the court, except that no order for outpatient treatment shall be refused by a participating mental health center.

(c) If outpatient treatment is ordered, the order may state specific conditions to be followed by the patient, but shall include the general condition that the patient is required to comply with all directives and treatment as required by the head of the outpatient treatment facility or the head's designee. *Such directives and treatment plans shall be provided to the court in writing within 10 business days after the order for outpatient treatment is issued. Failure to provide such directives and treatment plans to the court as required by this subsection is not grounds for dismissal of the order unless the failure is made in bad faith.* The court may also make such orders as are appropriate to provide for monitoring the patient's progress and compliance with outpatient treatment. Within any outpatient order for treatment the court shall specify the period of treatment as provided for in ~~subsection (a) of~~ K.S.A. 59-2966*(a)* or ~~subsection (f) of K.S.A.~~ 59-2969*(f)*, and amendments thereto.

(d) The court shall retain jurisdiction to modify or revoke the order for outpatient treatment at any time on its own motion, on the motion of

any counsel of record or upon notice from the treatment facility of any need for new conditions in the order for outpatient treatment or of material noncompliance by the patient with the order for outpatient treatment. However, if the venue of the matter has been transferred to another court, then the court having venue of the matter shall have such jurisdiction to modify or revoke the outpatient treatment order. Revocation or modification of an order for outpatient treatment may be made ex parte by order of the court in accordance with the provisions of subsections (e) or (f).

(e) The treatment facility shall immediately report to the court any material noncompliance by the patient with the outpatient treatment order. Such notice may be verbal or by telephone but shall be followed by a verified written, facsimile or electronic notice sent to the court, to counsel for all parties and, as appropriate, to the head of the inpatient treatment facility designated to receive the patient, by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic communication was made to the court. Upon receipt of verbal, telephone, or verified written, facsimile or electronic notice of material noncompliance, the court may enter an ex parte emergency custody order providing for the immediate detention of the patient in a designated inpatient treatment facility except that the court shall not order the detention of the patient at a state psychiatric hospital, unless a written statement from a qualified mental health professional authorizing such detention at a state psychiatric hospital has been filed with the court. Any ex parte emergency custody order issued by the court under this subsection shall expire at 5:00 p.m. of the ~~second~~ *third* day the district court is open for the transaction of business after the patient is taken into custody. The court shall not enter successive ex parte emergency custody orders.

(f) (1) Upon the taking of a patient into custody pursuant to an ex parte emergency custody order revoking a previously issued order for outpatient treatment and ordering the patient to involuntary inpatient care the court shall set the matter for hearing not later than the close of business on the ~~second~~ *third* day the court is open for business after the patient is taken into custody. Notice of the hearing shall be given to the patient, the patient's attorney, the patient's legal guardian, the petitioner or the county or district attorney as appropriate, the head of the outpatient treatment facility and the head of the inpatient treatment facility, similarly as provided for in K.S.A. 59-2963, and amendments thereto.

(2) Upon the entry of an ex parte order modifying a previously issued order for outpatient treatment, but allowing the patient to remain at liberty, a copy of the order shall be served upon the patient, the patient's attorney, the county or district attorney and the head of the outpatient treatment facility similarly as provided for in K.S.A. 59-2963, and amendments thereto. Thereafter, any party to the matter, including the

petitioner, the county or district attorney or the patient, may request a hearing on the matter if the request is filed within five days from the date of service of the ex parte order upon the patient. The court may also order such a hearing on its own motion within five days from the date of service of the notice. If no request or order for hearing is filed within the five-day period, the ex parte order and the terms and conditions set out in the ex parte order shall become the final order of the court substituting for any previously entered order for outpatient treatment. If a hearing is requested, a formal written request for revocation or modification of the outpatient treatment order shall be filed by the county or district attorney or the petitioner and a hearing shall be held thereon within 5 days after the filing of the request.

(g) The hearing held pursuant to subsection (f) shall be conducted in the same manner as hearings provided for in K.S.A. 59-2959, and amendments thereto. Upon the completion of the hearing, if the court finds by clear and convincing evidence that the patient violated any condition of the outpatient treatment order, the court may enter an order for inpatient treatment, except that the court shall not order treatment at a state psychiatric hospital unless a written statement from a qualified mental health professional authorizing such treatment at a state psychiatric hospital has been filed with the court, or may modify the order for outpatient treatment with different terms and conditions in accordance with this section.

(h) The outpatient treatment facility shall comply with the provisions of K.S.A. 59-2969, and amendments thereto, concerning the filing of written reports for each period of treatment during the time any outpatient treatment order is in effect and the court shall receive and process such reports in the same manner as reports received from an inpatient treatment facility.

Sec. 4. K.S.A. 59-2969 is hereby amended to read as follows: 59-2969. (a) At least 14 days prior to the end of each period of treatment, as set out in the court order for such treatment, the head of the treatment facility furnishing treatment to the patient shall cause to be filed with the court a written report summarizing the treatment provided and the findings and recommendations of the treatment facility concerning the need for further treatment for the patient. Upon the filing of this written report, the court shall notify the patient's attorney of record that this written report has been filed. If there is no attorney of record for the patient, the court shall appoint an attorney and notify such attorney that the written report has been filed.

(b) When the attorney for the patient has received notice that the treatment facility has filed with the district court its written report, the attorney shall consult with the patient to determine whether the patient desires a hearing. If the patient desires a hearing, the attorney shall file a

written request for a hearing with the district court~~, which~~ *and the* request shall be filed not later than the last day ending any period of treatment as specified in the court's order for treatment issued pursuant to K.S.A. 59-2966 or 59-2967, and amendments thereto, or the court's last entered order for continued treatment issued pursuant to subsection (f). If the patient does not desire a hearing, the patient's attorney shall file with the court a written statement that the attorney has consulted with the patient; the manner in which the attorney has consulted with the patient; that the attorney has fully explained to the patient the patient's right to a hearing as set out in this section and that if the patient does not request such a hearing that further treatment will likely be ordered, but that having been so advised the patient does not desire a hearing. Thereupon, the court may renew its order for treatment and may specify the next period of treatment as provided for in subsection (f). A copy of the court's order shall be given to the patient, the attorney for the patient, the patient's legal guardian, the petitioner or the county or district attorney, as appropriate, and to the head of the treatment facility treating the patient as the court directs.

(c) Upon receiving a written request for a hearing, the district court shall set the matter for hearing and notice of such hearing shall be given similarly as provided for in K.S.A. 59-2963, and amendments thereto. Notice shall also be given promptly to the head of the treatment facility treating the patient. The hearing shall be held as soon as reasonably practical, but in no event more than 10 days following the filing of the written request for a hearing. The patient shall remain in treatment during the pendency of any such hearing, unless discharged by the head of the treatment facility pursuant to K.S.A. 59-2973, and amendments thereto.

(d) The district court having jurisdiction of any case may, on its own motion or upon written request of any interested party, including the head of the treatment facility where a patient is being treated, hold a hearing to review the patient's status earlier than at the times set out in subsection (b)~~ above~~, if the court determines that a material change of circumstances has occurred necessitating an earlier hearing, however, the patient shall not be entitled to have more than one review hearing within each period of treatment as specified in any order for treatment, order for out-patient treatment or order for continued treatment.

(e) The hearing shall be conducted in the same manner as hearings provided for in K.S.A. 59-2965, and amendments thereto, except that the hearing shall be to the court and the patient shall not have the right to demand a jury. At the hearing it shall be the petitioner's or county or district attorney's or treatment facility's burden to show that the patient remains a mentally ill person subject to involuntary commitment for care and treatment under this act.

(f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment for care and treatment under this act, the court shall order continued treatment for a specified period of time not to exceed ~~three~~ *six* months for any initial order for continued treatment, nor more than six months in any subsequent order for continued treatment, at an inpatient treatment facility as provided for in K.S.A. 59-2966, and amendments thereto, or at an outpatient treatment facility if the court determines that outpatient treatment is appropriate under K.S.A. 59-2967, and amendments thereto, and a copy of the court's order shall be provided to the head of the treatment facility. If the court finds that it has not been shown by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment for care and treatment under this act, it shall release the patient. A copy of the court's order of release shall be provided to the patient, the patient's attorney, the patient's legal guardian or other person known to be interested in the care and welfare of a minor patient, and to the head of the treatment facility ~~at which~~ *where* the patient had been receiving treatment.

Sec. 5. K.S.A. 59-2958, 59-2959 and 59-2969 and K.S.A. 2023 Supp. 59-2967 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 12, 2024.

CHAPTER 32

HOUSE BILL No. 2484

AN ACT concerning the behavioral sciences; relating to social work; enacting the social work licensure compact to provide interstate practice privileges; requiring applicants for social work licensure to submit to a criminal history record check; authorizing the behavioral sciences regulatory board to establish a fee for a license with compact practice privileges; amending K.S.A. 2023 Supp. 65-6314 and repealing the existing section.

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

New Section 1. This section shall be known and may be cited as the social work licensure compact.

SECTION 1—PURPOSE

The purpose of this compact is to facilitate interstate practice of regulated social workers by improving public access to competent social work services. 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 social work services;

(b) reduce overly burdensome and duplicative requirements associated with holding multiple licenses;

(c) enhance the member states' ability to protect the public's health and safety;

(d) encourage the cooperation of member states in regulating multistate practice;

(e) promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple states through the mutual recognition of other member state licenses;

(f) support military families;

(g) facilitate the exchange of licensure and disciplinary information among member states;

(h) authorize all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations and applicable professional standards in the member state where the client is located at the time care is rendered; and

(i) allow for the use of telehealth to facilitate increased access to regulated social work services.

SECTION 2—DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

(a) "Active military member" means any individual with full-time duty status in the active armed forces of the United States, including members of the national guard and reserve.

(b) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing authority or other authority against a regulated social worker, including actions against an individual's license or multistate authorization to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other encumbrance on licensure affecting a regulated social worker's authorization to practice, including issuance of a cease and desist action.

(c) "Alternative program" means a non-disciplinary monitoring or practice remediation process approved by a licensing authority to address practitioners with an impairment.

(d) "Charter member states" means member states that have enacted legislation to adopt this compact where such legislation predates the effective date of this compact as described in section 14 of this compact.

(e) "Compact commission" or "commission" means the government agency whose membership consists of all states that have enacted this compact, which is known as the social work licensure compact commission as described in section 10 of this compact, and shall operate as an instrumentality of the member states.

(f) "Current significant investigative information" means investigative information that:

(1) A licensing authority, after a preliminary inquiry that includes notification and an opportunity for the regulated social worker to respond, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the commission; or

(2) Indicates that the regulated social worker represents an immediate threat to public health and safety, as may be defined by the commission, regardless of whether the regulated social worker has been notified and has had an opportunity to respond.

(g) "Data system" means a repository of information about licensees, including, continuing education, examination, licensure, current significant investigative information, disqualifying event, multistate license and adverse action information or other information as required by the commission.

(h) "Disqualifying event" means any adverse action or incident that results in an encumbrance that disqualifies or makes the licensee ineligible to either obtain, retain or renew a multistate license.

(i) "Domicile" means the jurisdiction in which the licensee resides and intends to remain indefinitely.

(j) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of social work licensed and regulated by a licensing authority.

(k) "Executive committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the compact and commission.

(l) "Home state" means the member state that is the licensee's primary domicile.

(m) "Impairment" means a condition that may impair a practitioner's ability to engage in full and unrestricted practice as a regulated social worker without some type of intervention and may include alcohol and drug dependence, mental health impairment and neurological or physical impairments.

(n) "Licensee" means an individual who currently holds a license from a state to practice as a regulated social worker.

(o) "Licensing authority" means the board or agency of a member state, or equivalent, that is responsible for the licensing and regulation of regulated social workers.

(p) "Member state" means a state, commonwealth, district or territory of the United States of America that has enacted this compact.

(q) "Multistate authorization to practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state.

(r) "Multistate license" means a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice.

(s) "Qualifying national exam" means a national licensing examination approved by the commission.

(t) "Regulated social worker" means any clinical, master's or bachelor's social worker licensed by a member state regardless of the title used by that member state.

(u) "Remote state" means a member state other than the licensee's home state.

(v) "Rule" or "rule of the commission" means a regulation duly promulgated by the commission, as authorized by the compact, that has the force of law.

(w) "Single-state license" means a social work license issued by any state that authorizes practice only within the issuing state and does not include multistate authorization to practice in any member state.

(x) "Social work" or "social work services" means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities through the care and services provided by a regulated social worker as set forth in the member state's statutes and regulations in the state where the services are being provided.

(y) "State" means any state, commonwealth, district or territory of the United States of America that regulates the practice of social work.

(z) "Unencumbered license" means a license that authorizes a regulated social worker to engage in the full and unrestricted practice of social work.

SECTION 3—STATE PARTICIPATION IN THE COMPACT

(a) To be eligible to participate in the compact, a potential member state shall currently meet all of the following criteria:

(1) License and regulate the practice of social work at either the clinical, master's or bachelor's category;

(2) require applicants for licensure to graduate from a program that is:

(A) Operated by a college or university recognized by the licensing authority;

(B) accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:

(i) The council for higher education accreditation, or its successor; or

(ii) the United States department of education; and

(C) corresponds to the licensure sought as outlined in section 4 of this compact;

(3) require applicants for clinical licensure to complete a period of supervised practice; and

(4) have a mechanism in place for receiving, investigating and adjudicating complaints about licensees.

(b) To maintain membership in the compact, a member state shall:

(1) Require that applicants for a multistate license pass a qualifying national exam for the corresponding category of multistate license sought as outlined in section 4 of this compact;

(2) participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(3) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of current significant investigative information regarding a licensee;

(4) implement procedures for considering the criminal history records of applicants for a multistate license. Such 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;

(5) comply with the rules of the commission;

(6) 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 home state laws;

(7) authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the compact and rules of the commission; and

(8) designate a delegate to participate in the commission meetings.

(c) A member state meeting the requirements of subsections (a) and (b) shall designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in such member state. To the extent that any member state does not meet the requirements for participation in the compact at any particular category of social work licensure, such member state may choose, but is not obligated to, issue a multistate license to applicants that otherwise meet the requirements of section 4 of this compact for issuance of a multistate license in such category or categories of licensure.

(d) The home state may charge a fee for granting the multistate license.

SECTION 4—SOCIAL WORKER PARTICIPATION IN THE COMPACT

(a) To be eligible for a multistate license under the terms and provisions of the compact, an applicant, regardless of category, shall:

(1) Hold or be eligible for an active, unencumbered license in the home state;

(2) pay any applicable fees, including any state fee, for the multistate license;

(3) submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(4) notify the home state of any adverse action, encumbrance or restriction on any professional license taken by any member state or non-member state within 30 days after the date the action is taken;

(5) meet any continuing competence requirements established by the home state; and

(6) abide by the laws, regulations and applicable standards in the member state where the client is located at the time care is rendered.

(b) An applicant for a clinical-category multistate license shall meet all of the following requirements:

(1) Fulfill a competency requirement, which shall be satisfied by:

(A) Passage of a clinical-category qualifying national exam;

(B) licensure of the applicant in their home state at the clinical category, beginning prior to such time as a qualifying national exam was required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(C) the substantial equivalency of the foregoing competency requirements, which the commission may determine by rule;

(2) attain at least a master's degree in social work from a program that is:

(A) Operated by a college or university recognized by the licensing authority; and

(B) Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(i) The council for higher education accreditation or its successor; or

(ii) the United States department of education; and

(3) fulfill a practice requirement, which shall be satisfied by demonstrating completion of:

(A) A period of postgraduate supervised clinical practice equal to a minimum of 3,000 hours;

(B) a minimum of two years of full-time postgraduate supervised clinical practice; or

(C) the substantial equivalency of the foregoing practice requirements that the commission may determine by rule.

(c) An applicant for a master's-category multistate license shall meet all of the following requirements:

(1) Fulfill a competency requirement, which shall be satisfied by:

(A) Passage of a master's-category qualifying national exam;

(B) licensure of the applicant in their home state at the master's category, beginning prior to such time as a qualifying national exam was required by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(C) the substantial equivalency of the foregoing competency requirements, which the commission may determine by rule; and

(2) attain at least a master's degree in social work from a program that is:

(A) Operated by a college or university recognized by the licensing authority; and

(B) accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(i) The council for higher education accreditation or its successor; or

(ii) the United States department of education.

(d) An applicant for a bachelor's-category multistate license shall meet all of the following requirements:

(1) Fulfill a competency requirement, which shall be satisfied by:

(A) Passage of a bachelor's-category qualifying national exam;

(B) Licensure of the applicant in their home state at the bachelor's category, beginning prior to such time as a qualifying national exam was

required by the home state and accompanied by a period of continuous social work licensure thereafter, all of which may be further governed by the rules of the commission; or

(C) the substantial equivalency of the foregoing competency requirements, which the commission may determine by rule; and

(2) attain at least a bachelor's degree in social work from a program that is:

(A) Operated by a college or university recognized by the licensing authority; and

(B) accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

(i) The council for higher education accreditation or its successor; or

(ii) the United States department of education.

(e) The multistate license for a regulated social worker is subject to the renewal requirements of the home state. The regulated social worker shall maintain compliance with the requirements of section 4(a) of this compact to be eligible to renew a multistate license.

(f) The regulated social worker's services in a remote state are subject to that member state's regulatory authority. A remote state may, in accordance with due process and that member state's laws, remove a regulated social worker's multistate authorization to practice in the remote state for a specific period of time, impose fines and take any other necessary actions to protect the health and safety of its citizens.

(g) If a multistate license is encumbered, the regulated social worker's multistate authorization to practice shall be deactivated in all remote states until the multistate license is no longer encumbered.

(h) If a multistate authorization to practice is encumbered in a remote state, the regulated social worker's multistate authorization to practice may be deactivated in that state until the multistate authorization to practice is no longer encumbered.

SECTION 5—ISSUANCE OF A MULTISTATE LICENSE

(a) Upon receipt of an application for multistate license, the home state licensing authority shall determine the applicant's eligibility for a multistate license in accordance with section 4 of this compact.

(b) If such applicant is eligible pursuant to section 4 of this compact, the home state licensing authority shall issue a multistate license that authorizes the applicant or regulated social worker to practice in all member states under a multistate authorization to practice.

(c) Upon issuance of a multistate license, the home state licensing authority shall designate whether the regulated social worker holds a multistate license in the bachelor's, master's or clinical category of social work.

(d) A multistate license issued by a home state to a resident in that state shall be recognized by all compact member states as authorizing

social work practice under a multistate authorization to practice corresponding to each category of licensure regulated in each member state.

SECTION 6—AUTHORITY OF INTERSTATE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

(a) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict or in any way reduce the ability of a member state to enact and enforce laws, regulations or other rules related to the practice of social work in that state, where those laws, regulations or other rules are not inconsistent with the provisions of this compact.

(b) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(c) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict or in any way reduce the ability of a member state to take adverse action against a licensee's single-state license to practice social work in that state.

(d) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict or in any way reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state.

(e) Nothing in this compact, nor any rule of the commission, shall be construed to limit, restrict or in any way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based upon information provided by a remote state.

SECTION 7—REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

(a) A licensee may hold a multistate license, issued by their home state, in only one member state at any given time.

(b) If a licensee changes their home state by moving between two member states:

(1) The licensee shall immediately apply for the reissuance of their multistate license in their new home state. The licensee shall pay all applicable fees and notify the prior home state in accordance with the rules of the commission.

(2) Upon receipt of an application to reissue a multistate license, the new home state shall verify that the multistate license is active, unencumbered and eligible for reissuance under the terms of the compact and the rules of the commission. The multistate license issued by the prior home state will be deactivated and all member states notified in accordance with the applicable rules adopted by the commission.

(3) Prior to the reissuance of the multistate license, the new home state shall conduct procedures for considering the criminal history records of the licensee. Such 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 such new home state's criminal records.

(4) If required for initial licensure, the new home state may require completion of jurisprudence requirements in the new home state.

(5) Notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the licensee shall be subject to the new home state requirements for the issuance of a single-state license in that state.

(c) If a licensee changes their primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, then the licensee shall be subject to the state requirements for the issuance of a single-state license in the new home state.

(d) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states, except that, for the purposes of this compact, a licensee shall have only one home state and only one multistate license.

(e) Nothing in this compact shall interfere with the requirements established by a member state for the issuance of a single-state license.

SECTION 8—MILITARY FAMILIES

An active military member or their spouse shall designate a home state where the individual has a multistate license. The individual may retain their home state designation during the period the service member is on active duty.

SECTION 9—ADVERSE ACTIONS

(a) (1) 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 take adverse action against a regulated social worker's multistate authorization to practice only within that member state and 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 authority 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 licensing 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.

(2) Only the home state shall have the power to take adverse action against a regulated social worker's multistate license.

(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 a regulated social worker who changes their home state 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 data system shall promptly notify the new home state of any adverse actions.

(d) A member state, if otherwise permitted by state law, may recover from the affected regulated social worker the costs of investigations and dispositions of cases resulting from any adverse action taken against that regulated social worker.

(e) A member state may take adverse action based on the factual findings of another member state, provided that the member state follows its own procedures for taking the adverse action.

(f) Joint investigations:

(1) In addition to the authority granted to a member state by its respective social work 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 the multistate license of a regulated social worker, the regulated social worker's multistate authorization to practice in all other member states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker shall include a statement that the regulated social worker's multistate authorization to practice is deactivated in all member states until all conditions of the decision, order or agreement are satisfied.

(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 and all other member states 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.

(j) Nothing in this compact shall authorize a member state to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another member state for lawful actions within that member state.

(k) Nothing in this compact shall authorize a member state to impose disciplinary action against a regulated social worker who holds a multistate authorization to practice for lawful actions within another member state.

SECTION 10—ESTABLISHMENT OF SOCIAL WORK LICENSURE COMPACT COMMISSION

(a) The compact member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the social work licensure compact commission. The commission is an instrumentality of the compact states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 14 of this compact.

(b) Membership, voting and meetings:

(1) Each member state shall have and be limited to one delegate selected by that member state's state licensing authority.

(2) The delegate shall be either:

(A) A current member of the state licensing authority at the time of appointment, who is a regulated social worker or public member of the state licensing authority; or

(B) an administrator of the state licensing authority or their designee.

(3) The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

(4) The commission may recommend the removal or suspension of any delegate from office.

(5) A member state's state licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days after the vacancy occurs.

(6) Each delegate shall be entitled to one vote on all matters before the commission requiring a vote by commission delegates.

(7) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference or other means of communication.

(8) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference or other similar electronic means.

(c) The commission shall have the following powers:

(1) Establish the fiscal year of the commission;

(2) establish code of conduct and conflict of interest policies;

(3) establish and amend rules and bylaws;

(4) maintain its financial records in accordance with the bylaws;

(5) meet and take such actions as are consistent with the provisions of this compact, the commission's rules and the bylaws;

(6) initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

(7) maintain and certify records and information provided to a member state as the authenticated business records of the commission and designate an agent to do so on the commission's behalf;

(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) conduct an annual financial review;

(11) hire employees, elect or appoint officers, fix compensation, define duties, grant such 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;

(12) assess and collect fees;

(13) accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials and services and receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(14) lease, purchase, retain, own, hold, improve or use any property, real, personal or mixed, or any undivided interest therein;

(15) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

(16) establish a budget and make expenditures;

(17) borrow money;

(18) appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives and consumer representatives and such other interested persons as may be designated in this compact and the bylaws;

(19) provide and receive information from, and cooperate with, law enforcement agencies;

(20) establish and elect an executive committee, including a chairperson and a vice chairperson;

(21) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(22) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(d) The executive committee:

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties and responsibilities of the executive committee shall include:

(A) Oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its rules and bylaws and other such duties as deemed necessary;

(B) recommend to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees and other fees;

(C) ensure compact administration services are appropriately provided, including by contract;

(D) prepare and recommend the budget;

(E) maintain financial records on behalf of the commission;

(F) monitor compact compliance of member states and provide compliance reports to the commission;

(G) establish additional committees as necessary;

(H) exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(I) fulfill other duties as provided in the rules or bylaws of the commission.

(2) The executive committee shall be composed of up to 11 members:

(A) The chairperson and vice chairperson of the commission shall be voting members of the executive committee;

(B) the commission shall elect five voting members from the current membership of the commission;

(C) up to four nonvoting members from four recognized national social work organizations; and

(D) the nonvoting members shall be selected by their respective organizations.

(3) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(4) The executive committee shall meet at least annually.

(A) Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, non-public meeting as provided in subsection (f)(2).

(B) The executive committee shall give seven days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(C) The executive committee may hold a special meeting in accordance with subsection (f)(1)(B).

(e) The commission shall adopt and provide to the member states an annual report.

(f) Meetings of the commission:

(1) All meetings shall be open to the public, except that the commission may meet in a closed, non-public meeting as provided in subsection (f)(2).

(A) Public notice for all meetings of the full commission shall be given in the same manner as required under the rulemaking provisions in section 12 of this compact, except that the commission may hold a special meeting as provided in subsection (f)(1)(B).

(B) The commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners on the commission's website and by other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

(2) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting for the commission or executive committee or other committees of the commission to receive legal advice or 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;

(C) current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

(D) current, threatened or reasonably anticipated litigation;

(E) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(F) accusing any person of a crime or formally censuring any person;

(G) trade secrets or commercial or financial information that is privileged or confidential;

(H) information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(I) investigative records compiled for law enforcement purposes;

(J) 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;

(K) matters specifically exempted from disclosure by federal or member state law; or

(L) other matters as promulgated by the commission by rule.

(3) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(4) 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 such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(g) Financing of the commission:

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources as provided in subsection (c)(13).

(3) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license 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 for member states shall be allocated based upon a formula that the commission shall promulgate by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(h) Qualified immunity, defense and indemnification:

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton

misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted under this compact.

(2) The commission shall defend any member, officer, executive director, employee and 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 as determined by the commission that the person against whom the claim is made had a reasonable basis for believing such act or alleged act, error or omission occurred within the scope of commission employment, duties or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; 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 and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

(4) Nothing in this compact shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman act, Clayton act or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

SECTION 11—DATA SYSTEM

(a) The commission shall provide for the development, maintenance, operation and utilization of a coordinated data system.

(b) The commission shall assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

(c) 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 and information related thereto;
(4) non-confidential information related to alternative program participation, the beginning and ending dates of such participation and other information related to such participation not made confidential under member state law;
(5) any denial of application for licensure and the reason for such denial;
(6) the presence of current significant investigative information; and
(7) other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(d) The records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a member state.

(e) Current significant investigative information pertaining to a licensee in any member state will only be available to other member states. It is the responsibility of the member states to report any adverse action against a licensee and to monitor the database to determine whether adverse action has been taken against a licensee. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(f) 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.

(g) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information shall be removed from the data system.

SECTION 12—RULEMAKING

(a) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(b) The rules of the commission shall have the force of law in each member state, except that where the rules of the commission conflict with the laws of the member state that establish the member state's laws, reg-

ulations and applicable standards that govern the practice of social work as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(c) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

(d) If a majority of the legislatures of the member states rejects a rule or portion of 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, then such rule shall have no further force and effect in any member state.

(e) Rules shall be adopted at a regular or special meeting of the commission.

(f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions and arguments.

(g) Prior to adoption of a proposed rule by the commission and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform;

(2) to persons who have requested notice of the commission's notices of proposed rulemaking; and

(3) in such other way as the commission may specify by rule.

(h) The notice of proposed rulemaking shall include:

(1) The time, date and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date and location of the meeting where the commission will consider and vote on the proposed rule;

(2) if the hearing is held via telecommunication, videoconference or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

(3) the text of the proposed rule and the reason therefor;

(4) a request for comments on the proposed rule from any interested person; and

(5) the manner in which interested persons may submit written comments.

(i) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(j) 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.

(k) The commission shall, by majority vote of all members, take final action on the proposed rule based on the rulemaking record and the full text of the rule.

(1) The commission may adopt changes to the proposed rule, provided that the changes do not enlarge the original purpose of the proposed rule.

(2) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(3) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (l), the effective date of the rule shall not be earlier than 30 days after issuing the notice that it adopted or amended the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, 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 shall be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety or welfare;

(2) prevent a loss of commission or member state funds;

(3) meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(4) protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical, formatting, 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 commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(n) No member state's rulemaking requirements shall apply under this compact.

SECTION 13—OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) Oversight:

(1) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(2) Except as otherwise provided in this compact, 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. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination:

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default and any other action that the commission may take and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other member states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority and each of the member states' state licensing authority.

(e) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six months after the date of said notice of termination.

(g) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(h) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(i) 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.

(j) Enforcement:

(1) By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(2) A member state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) No person other than a member state shall enforce this compact against the commission.

SECTION 14—EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the 7th member state.

(1) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the first seven member states, the charter member states, to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

(A) A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in section 13 of this compact.

(B) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be fewer than seven.

(2) Member states enacting the compact subsequent to the seven initial charter member states shall be subject to the process set forth in section 10(c)(21) of this compact to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(3) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(4) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date when 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.

(b) 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 180 days after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(3) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(c) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement be-

tween a member state and a non-member state that does not conflict with the provisions of this compact.

(d) 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 15—CONSTRUCTION AND SEVERABILITY

(a) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the compact or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

(c) Notwithstanding subsection (b), the commission may deny a state's participation in the compact or, in accordance with the requirements of section 13(b) of this compact, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Otherwise, if this compact shall be held to be 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 16—CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

(a) A licensee providing services in a remote state under a multistate authorization to practice shall adhere to the laws and regulations, including laws, regulations and applicable standards, of the remote state where the client is located at the time care is rendered.

(b) Nothing in this compact shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(c) Any laws, statutes, regulations or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(d) All permissible agreements between the commission and the member states are binding in accordance with their terms.

New Sec. 2. (a) (1) Except as provided in paragraph (2), the board shall require an applicant for initial licensure or renewal or reinstatement of a license under this act to submit to a state and national criminal history record check.

(2) The board may require an applicant for renewal of a license to submit to a state and national criminal history record check if such applicant has submitted to a state and national criminal history record check within the last five years.

(3) Applicants for a multistate license shall be fingerprinted, and the board shall submit such fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a search of the state and federal database.

(4) Fingerprints and criminal history record information provided pursuant to this section may be used to identify a person and to determine whether such person has a record of criminal history in this state or another jurisdiction. The board may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or maintain a license or multistate practice privilege under the social work compact.

(5) The Kansas bureau of investigation shall release criminal history record information related to adult convictions to the board for a licensee, as defined in this section, in connection with am application or license as described in K.S.A. 65-6306, and amendments thereto.

(b) Local and state law enforcement officers and agencies shall assist the board in the taking and processing of fingerprints of applicants for multistate licensure and release all records of adult convictions to the board for the purposes set forth in subsection (a)(4).

(c) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.

(d) (1) Fingerprints and criminal history record information received pursuant to this section 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 paragraph shall expire on July 1, 2029, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(2) Disclosure or use of any information received pursuant to this section for any purpose other than the purpose described in this section shall be a class A nonperson misdemeanor and shall constitute grounds for removal from office.

(e) As used in this section, "licensee" means a person who has submit-

ted an original application or an application for renewal or reinstatement of a license or who currently holds a license under this act issued by the behavioral sciences regulatory board.

(f) This section shall be a part of and supplemental to the social workers licensure act.

Sec. 3. K.S.A. 2023 Supp. 65-6314 is hereby amended to read as follows: 65-6314. (a) The following fees may be established by the board in accordance with the following limitations, and any such fees shall be established by rules and regulations adopted by the board:

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

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

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

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

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

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

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

(8) Temporary candidacy license fee for a baccalaureate social worker, master social worker or a social work specialty shall be not more than $75.

(9) Six-month reinstatement temporary license fee for a baccalaureate social worker, master social worker or a social work specialty shall be not more than $50.

(10) Community-based license fee for a baccalaureate social worker, master social worker or social work specialty shall be not more than $175.

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

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

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

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

(12) New license or renewal fee for a home-state license with privilege to practice under the social work licensure compact shall be not more than $25 in addition to any other applicable fee.

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

Sec. 4. K.S.A. 2023 Supp. 65-6314 is hereby repealed.

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

Approved April 12, 2024.

CHAPTER 33

HOUSE BILL No. 2703

AN ACT concerning school districts; relating to at-risk programs and services; including placement in the custody of the secretary for children and families as a criteria for eligibility for such programs and services; amending K.S.A. 2023 Supp. 72-5153a and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 72-5153a is hereby amended to read as follows: 72-5153a. (a) To assist students identified as eligible to receive at-risk educational programs and services in meeting state board of education outcome goals, the state board of education shall require school districts to implement at-risk educational programs and services that provide additional educational opportunities, interventions and evidence-based instruction using the at-risk best practices identified pursuant to K.S.A. 72-5153, and amendments thereto.

(b) A student shall be identified as eligible to receive at-risk programs and services if the student meets one or more of the following criteria:

(1) Is not working on academic grade level;

(2) is not meeting the requirements necessary for promotion to the next grade or is failing subjects or courses of study;

(3) is not meeting the requirements necessary for graduation from high school or has the potential to drop out of school;

(4) has insufficient mastery of skills or is not meeting state standards;

(5) has been retained;

(6) has a high rate of absenteeism;

(7) has repeated suspensions or expulsions from school;

(8) is homeless or migrant;

(9) is identified as an English language learner;

(10) has social-emotional needs that cause the student to be unsuccessful in school; ~~or~~

(11) is identified as a student with dyslexia or characteristics of dyslexia*; or*

(12) is in the custody of the secretary for children and families.

(c) This section shall be a part of and supplemental to the Kansas school equity and enhancement act.

~~(d) This section shall take effect and be in force from and after July 1, 2021.~~

Sec. 2. K.S.A. 2023 Supp. 72-5153a 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 12, 2024.

CHAPTER 34

HOUSE BILL No. 2781

AN ACT concerning the crime victims compensation board; relating to claims for compensation; allowing compensation for criminally injurious conduct; increasing the amount of awards and increasing the amount that can be transferred from the crime victims compensation fund to the crime victims assistance fund in each fiscal year; amending K.S.A. 75-752 and K.S.A. 2023 Supp. 74-7305 and repealing the existing sections.

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

Section 1. K.S.A. 2023 Supp. 74-7305 is hereby amended to read as follows: 74-7305. (a) An application for compensation shall be made in the manner and form prescribed by the crime victims compensation division created by K.S.A. 75-773, and amendments thereto.

(b) (1) ~~Except as otherwise provided in this subsection,~~ Compensation may not be awarded unless an application has been filed with the division within two years of the reporting of the incident to law enforcement officials if the victim was less than 16 years of age and the injury or death is the result of any of the following crimes:

(A) Enticement of a child as defined in K.S.A. 21-3509, prior to its repeal;

(B) human trafficking as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 21-5426(a), and amendments thereto;

(C) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 21-5426(b), and amendments thereto; or

(D) a sexually violent crime~~,~~ as defined in K.S.A. 22-3717, and amendments thereto.

(2) ~~Compensation for mental health counseling may be awarded to a:~~

~~(A) Victim, as defined in K.S.A. 74-7301(m)(4), and amendments thereto, if the board finds there was good cause for the failure to file within the time specified in this subsection and the claim is filed before the victim turns 19 years of age;~~

~~(B) victim of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, if the board finds there was good cause for the failure to file within the time specified in this subsection and:~~

~~(i) The claim is filed with the division within 10 years of the date such crime was committed; or~~

~~(ii) if the victim was less than 18 years of age at the time such crime was committed, the claim is filed within 10 years of the date the victim turns 18 years of age;~~

~~(C) victim who is or will be required to testify in a sexually violent predator commitment, pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the victim or the victim on whose behalf the claim is made, if the claim is made within two years of such testimony; or~~

~~(D) victim who is notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the victim or the victim on whose behalf the claim is made, or is notified of the identification of a suspected offender who victimized the victim or the victim on whose behalf the claim is made, if the claim is made within two years of such notification.~~

~~(3)~~ For all other incidents of criminally injurious conduct, compensation may not be awarded unless*:*

(A) The claim has been filed with the division within ~~two~~ *five* years after the injury or death upon which the claim is based*;*

(B) in a case where a victim who is notified that DNA testing of a sexual assault kit or other evidence has revealed a DNA profile of a suspected offender who victimized the victim or the victim on whose behalf the claim is made, or is notified of the identification of a suspected offender who victimized the victim or the victim on whose behalf the claim is made, the claim has been filed with the division within two years of such notification;

(C) the board finds that compensation may be awarded to:

(i) A victim as defined in K.S.A. 74-7301(m)(4), and amendments thereto, if the claim has been filed before the victim turns 19 years of age;

(ii) a victim of a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto, if:

(a) The claim has been filed with the division within 10 years after the date such crime was committed; or

(b) the victim was less than 18 years of age at the time such crime was committed, and the claim has been filed within 10 years after the date the victim turns 18 years of age; or

(iii) a victim who is or will be required to testify in a sexually violent predator commitment pursuant to article 29a of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, of an offender who victimized the victim or the victim on whose behalf the claim is made, if the claim has been filed with the division within two years of such testimony; or

(D) the board determines that denying compensation would be a severe injustice to the victim.

(3) If more than one of the time limitations described in subsection (b)(1) or (b)(2) apply to a victim, the longest time limitation to file a claim shall apply to the victim.

(c) Compensation may not be awarded to a claimant who was the offender or an accomplice of the offender and may not be awarded to another person if the award would unjustly benefit the offender or accomplice.

(d) *(1)* Compensation otherwise payable to a claimant shall be reduced or denied~~,~~ to the extent, if any, that the:

~~(1)~~*(A)* Economic loss upon which the claimant's claim is based is recouped from other persons, including collateral sources;

~~(2)~~*(B)* board deems reasonable because of the contributory misconduct of the claimant or of a victim through whom the claimant claims; or

~~(3)~~*(C)* board deems reasonable, because the victim was likely engaging in, or attempting to engage in, unlawful activity at the time of the crime upon which the claim for compensation is based.

(2) ~~This subsection~~*The provisions of subsection (d)(1)(C)* shall not be construed to reduce or deny compensation to a victim of domestic abuse or sexual assault.

(e) Compensation may be awarded only if the board finds that unless the claimant is awarded compensation the claimant will suffer financial stress as the result of economic loss otherwise reparable. A claimant suffers financial stress only if the claimant cannot maintain the claimant's customary level of health, safety and education for self and dependents without undue financial hardship. In making its determination of financial stress, the board shall consider ~~all relevant factors, including~~ *the totality of the circumstances based on the following factors*:

(1) The number of the claimant's dependents;

(2) the usual living expenses of the claimant and the claimant's family;

(3) the special needs of the claimant and the claimant's dependents;

(4) the claimant's income and potential earning capacity; ~~and~~

(5) the claimant's resources*; and*

(6) other factors deemed appropriate by the board.

(f) Compensation may not be awarded unless*:*

(1) The criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within 72 hours after ~~its occurrence or~~ *the occurrence of the criminally injurious conduct;*

(2) the victim obtained a forensic medical examination within seven days after the occurrence of the criminally injurious conduct; or

(3) the board finds there was good cause for the failure to report *or obtain an examination* within ~~that~~ *the* time *limits provided in this subsection*.

(g) The board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies, may deny, withdraw or reduce an award of compensation.

(h) Compensation for work loss, replacement services loss, dependent's economic loss and dependent's replacement service loss may not exceed ~~$400~~ *$800* per week or actual loss, whichever is less. *Compensation for work loss for a victim of human trafficking or aggravated human trafficking as defined in K.S.A. 21-5426, and amendments thereto, shall be awarded in an amount not less than $350 per week and not more than $800 per week.*

(i) Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed $25,000 in the aggregate.

(j) Nothing in subsections ~~(d)(2)~~ *(d)(1)(B)*, ~~(d)(3)~~ *(d)(1)(C)*, (f) and (g) shall be construed to reduce or deny compensation to a victim of human trafficking or aggravated human trafficking~~,~~ as defined in K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child~~,~~ as defined in K.S.A. 21-6422, and amendments thereto, who was 18 years of age or younger at the time the crime was committed and is otherwise qualified for compensation.

Sec. 2. K.S.A. 75-752 is hereby amended to read as follows: 75-752. During the fiscal year ending June 30, ~~2010~~ *2025*, and during each ensuing fiscal year thereafter, the director of accounts and reports is hereby authorized to transfer an amount certified by the attorney general of not to exceed ~~$300,000~~ *$500,000* from the crime victims compensation fund to the crime victims assistance fund.

Sec. 3. K.S.A. 75-752 and K.S.A. 2023 Supp. 74-7305 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 35

SENATE BILL No. 379

AN ACT concerning the Kansas probate code; providing a longer time for notice to creditors by publication when a petition for administration or probate of a will is filed; changing the process for transferring personal property by affidavit in small estates; modifying time requirements for notice by publication related to sales at public auction; amending K.S.A. 59-709 and 59-2243 and K.S.A. 2023 Supp. 59-1507b and 59-2308 and repealing the existing sections.

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

Section 1. K.S.A. 59-709 is hereby amended to read as follows: 59-709. (a) Every petitioner who files a petition for administration or probate of a will shall give notice thereof to creditors, pursuant to an order of the court, and within ~~10~~ *30* days after such filing. Such notice shall be published in some newspaper of the county authorized by law to publish legal notices and shall be published once a week for three consecutive weeks. A petitioner for the appointment of a successor administrator, administrator CTA or administrator DBN shall publish notice to creditors only in the event the original petitioner for administration or for the probate of a will had failed to give such notice.

(b) The personal representative of a decedent's estate shall give actual notice to known or reasonably ascertainable creditors prior to the expiration of the nonclaim statute.

(c) Notwithstanding any other notice requirements of the probate code, notice to creditors shall not be necessary if a petition for administration or probate of a will shall have been filed after the period of time prescribed by K.S.A. 59-2239, and amendments thereto, for the timely exhibit of creditors' claims.

Sec. 2. K.S.A. 2023 Supp. 59-1507b is hereby amended to read as follows: 59-1507b. *(a)* When a resident of the state dies, whether testate or intestate, if the total assets of the estate of the decedent subject to probate do not exceed $75,000 in value, any personal property of whatever nature transferable to the decedent's estate by any entity or person shall be transferred to ~~the~~ *a person claiming to be a* successor ~~or successors~~ of the decedent, ~~if entitled thereto by will or by intestate succession~~ *or in a manner as directed by the successor*, without having been granted letters of administration or letters testamentary, upon such ~~successor's or successors'~~ *successor* furnishing the entity or person with an affidavit showing entitlement thereto.

(b) Transfer of such personal property to the successor or successors shall be deemed to be a transfer to the personal representative of the decedent, and the receipt of the successor or successors shall constitute a full discharge and release from any further claim for such transfer to the

same extent as if the transfer had been made to an executor or administrator of the decedent's estate. The affidavit required herein shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

(c) As used in this section, "successor" means a person:

(1) Entitled to the property by will or by intestate succession; or

(2) nominated as a personal representative under the decedent's will.

Sec. 3. K.S.A. 59-2243 is hereby amended to read as follows: 59-2243. In all sales at public auction, the personal representative shall give notice containing a description of the property to be sold, and stating the time, terms and place of sale, by publication once not less than 10 days before the date of sale in some newspaper, authorized to publish legal notices, of the county where the sale is to be held. *If the sale is being held as an auction that takes place over more than one day, the notice shall be published not less than 10 days before the first day that the auction is open for bidding.*

Sec. 4. K.S.A. 2023 Supp. 59-2308 is hereby amended to read as follows: 59-2308. In all sales at public auction the personal representative shall give notice containing a particular description of the real estate to be sold, and such notice shall state the time, terms and place of sale. The notice shall be given by publication once per week for three consecutive weeks in some newspaper, authorized to publish legal notices, of the county where the real estate is situated. The date set for the sale shall not be earlier than 10 days and not later than 30 days after the date of the last publication of notice. *If the sale is being held as an auction that takes place over more than one day, the first day that the auction is open for bidding shall not be earlier than 10 days and not later than 30 days after the date of the last publication notice.* If the tracts to be sold are contiguous and lie in more than one county, notice may be given and the sale made in either of such counties.

Sec. 5. K.S.A. 59-709 and 59-2243 and K.S.A. 2023 Supp. 59-1507b and 59-2308 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 12, 2024.

CHAPTER 36

HOUSE BILL No. 2453*

AN ACT concerning health and healthcare; relating to dentists and dental hygienists; enacting the dentist and dental hygienist compact to provide interstate practice privileges for dentists and dental hygienists.

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

Section 1. This section shall be known and may be cited as the dentist and dental hygienist compact.

SECTION 1—TITLE AND PURPOSE

The purposes of this compact are to facilitate the interstate practice of dentistry and dental hygiene and improve public access to dentistry and dental hygiene services by providing dentists and dental hygienists licensed in a participating state the ability to practice in participating states in which they are not licensed. The compact does this by establishing a pathway for a dentists and dental hygienists licensed in a participating state to obtain a compact privilege that authorizes them to practice in another participating state in which they are not licensed. The compact enables participating states to protect the public health and safety with respect to the practice of such dentists and dental hygienists, through the state's authority to regulate the practice of dentistry and dental hygiene in the state. The compact:

(a) Enables dentists and dental hygienists who qualify for a compact privilege to practice in other participating states without satisfying burdensome and duplicative requirements associated with securing a license to practice in those states;

(b) promotes mobility and addresses workforce shortages through each participating state's acceptance of a compact privilege to practice in that state;

(c) increases public access to qualified, licensed dentists and dental hygienists by creating a responsible, streamlined pathway for licensees to practice in participating states;

(d) enhances the ability of participating states to protect the public's health and safety;

(e) does not interfere with licensure requirements established by a participating state;

(f) facilitates the sharing of licensure and disciplinary information among participating states;

(g) requires dentists and dental hygienists who practice in a participating state pursuant to a compact privilege to practice within the scope of practice authorized in that state;

(h) extends the authority of a participating state to regulate the prac-

tice of dentistry and dental hygiene within its borders to dentists and dental hygienists who practice in the state through a compact privilege;

(i) promotes the cooperation of participating state in regulating the practice of dentistry and dental hygiene within those states; and

(j) facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene.

SECTION 2—DEFINITIONS

As used in this compact, unless the context requires otherwise, the following definitions shall apply:

(a) "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the national guard and reserve.

(b) "Adverse action" means disciplinary action or encumbrance imposed on a license or compact privilege by a state licensing authority.

(c) "Alternative program" means a non-disciplinary monitoring or practice remediation process applicable to a dentist or dental hygienist approved by a state licensing authority of a participating state in which the dentist or dental hygienist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues are referred in lieu of adverse action.

(d) "Clinical assessment" means examination or process, required for licensure as a dentist or dental hygienist as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.

(e) "Commissioner" means the individual appointed by a participating state to serve as the member of the commission for that participating state.

(f) "Compact" means this dentist and dental hygienist compact.

(g) "Compact privilege" means the authorization granted by a remote state to allow a licensee from a participating state to practice as a dentist or dental hygienist in a remote state.

(h) "Continuing professional development" means a requirement, as a condition of license renewal, to provide evidence of successful participation in educational or professional activities relevant to practice or area of work.

(i) "Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. § 20.3(d) from the federal bureau of investigation and the state's criminal history record repository as defined in 28 C.F.R. § 20.3(f).

(j) "Data system" means the commission's repository of information about licensees, including, but not limited to, examination, licensure, investigative, compact privilege, adverse action and alternative program.

(k) "Dental hygienist" means an individual who is licensed by a state licensing authority to practice dental hygiene.

(l) "Dentist" means an individual who is licensed by a state licensing authority to practice dentistry.

(m) "Dentist and dental hygienist compact commission" or "commission" means a joint government agency established by this compact comprised of each state that has enacted the compact and a national administrative body comprised of a commissioner from each state that has enacted the compact.

(n) "Encumbered license" means a license that a state licensing authority has limited in any way other than through an alternative program.

(o) "Executive board" means the chairperson, vice chairperson, secretary and treasurer and any other commissioners as may be determined by commission rule or bylaw.

(p) "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of dentistry or dental hygiene, as applicable, in a state.

(q) "License" means current authorization by a state, other than authorization pursuant to a compact privilege, or other privilege, for an individual to practice as a dentist or dental hygienist in that state.

(r) "Licensee" means an individual who holds an unrestricted license from a participating state to practice as a dentist or dental hygienist in that state.

(s) "Model compact" means the model for the dentist and dental hygienist compact on file with the council of state governments or other entity as designated by the commission.

(t) "Participating state" means a state that has enacted the compact and been admitted to the commission in accordance with the provisions of this compact and commission rules.

(u) "Qualifying license" means a license that is not an encumbered license issued by a participating state to practice dentistry or dental hygiene.

(v) "Remote state" means a participating state where a licensee who is not licensed as a dentist or dental hygienist is exercising or seeking to exercise the compact privilege.

(w) "Rule" means a regulation promulgated by an entity that has the force of law.

(x) "Scope of practice" means the procedures, actions and processes a dentist or dental hygienist licensed in a state is permitted to undertake in that state and the circumstances under which the licensee is permitted to undertake those procedures, actions and processes. Such procedures, actions and processes and the circumstances under which they may be undertaken may be established through means including, but not limited

to, statute, regulations, case law and other processes available to the state licensing authority or other government agency.

(y) "Significant investigative information" means information, records and documents received or generated by a state licensing authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the licensee has violated a statute or regulation that is considered more than a minor infraction for which the state licensing authority could pursue adverse action against the licensee.

(z) "State" means any state, commonwealth, district or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

(aa) "State licensing authority" means an agency or other entity of a state that is responsible for the licensing and regulation of dentists or dental hygienists.

SECTION 3—STATE PARTICIPATION IN THE COMPACT

(a) In order to join the compact and thereafter continue as a participating state, a state must:

(1) Enact a compact that is not materially different from the model compact as determined in accordance with commission rules;

(2) participate fully in the commission's data system;

(3) have a mechanism in place for receiving and investigating complaints about its licensees and license applicants;

(4) notify the commission, in compliance with the terms of the compact and commission rules, of any adverse action or the availability of significant investigative information regarding a licensee and license applicant;

(5) fully implement a criminal background check requirement, within a time frame established by commission rule, by receiving the results of a qualifying criminal background check;

(6) comply with the commission rules applicable to a participating state;

(7) accept the national board examinations of the joint commission on national dental examinations or another examination accepted by commission rule as a licensure examination;

(8) accept for licensure that applicants for a dentist license graduate from a predoctoral dental education program accredited by the commission on dental accreditation, or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery, D.D.S., or doctor of dental medicine, D.M.D., degree;

(9) accept for licensure that applicants for a dental hygienist license graduate from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs;

(10) require for licensure that applicants successfully complete a clinical assessment;

(11) have continuing professional development requirements as a condition for license renewal; and

(12) pay a participation fee to the commission as established by commission rule.

(b) Providing alternative pathways for an individual to obtain an unrestricted license does not disqualify a state from participating in the compact.

(c) When conducting a criminal background check, the state licensing authority shall:

(1) Consider that information in making a licensure decision;

(2) maintain documentation of completion of the criminal background check and background check information to the extent allowed by state and federal law; and

(3) report to the commission whether it has completed the criminal background check and whether the individual was granted or denied a license.

(d) A licensee of a participating state who has a qualifying license in that state and does not hold an encumbered license in any other participating state shall be issued a compact privilege in a remote state in accordance with the terms of the compact and commission rules. If a remote state has a jurisprudence requirement, a compact privilege will not be issued to the licensee unless the licensee has satisfied the jurisprudence requirement.

SECTION 4—COMPACT PRIVILEGE

(a) To obtain and exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(1) Have a qualifying license as a dentist or dental hygienist in a participating state;

(2) be eligible for a compact privilege in any remote state in accordance with subsections (d), (g) and (h);

(3) submit to an application process whenever the licensee is seeking a compact privilege;

(4) pay any applicable commission and remote state fees for a compact privilege in the remote state;

(5) meet any jurisprudence requirement established by a remote state in which the licensee is seeking a compact privilege;

(6) have passed a national board examination of the joint commission on national dental examinations or another examination accepted by commission rule;

(7) for a dentist, have graduated from a predoctoral dental education program accredited by the commission on dental accreditation, or another accrediting agency recognized by the United States department of

education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery, D.D.S., or doctor of dental medicine, D.M.D., degree;

(8) for a dental hygienist, have graduated from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs;

(9) have successfully completed a clinical assessment for licensure;

(10) report to the commission any adverse action taken by any non-participating state when applying for a compact privilege and, otherwise, within 30 days after the date the adverse action is taken;

(11) report to the commission when applying for a compact privilege the address of the licensee's primary residence and thereafter immediately report to the commission any change in the address of the licensee's primary residence; and

(12) consent to accept service of process by mail at the licensee's primary residence on record with the commission with respect to any action brought against the licensee by the commission or a participating state and consent to accept service of a subpoena by mail at the licensee's primary residence on record with the commission with respect to any action brought or investigation conducted by the commission or a participating state.

(b) The licensee must comply with the requirements of subsection (a) to maintain the compact privilege in the remote state. If those requirements are met, the compact privilege will continue as long as the licensee maintains a qualifying license in the state through which the licensee applied for the compact privilege and pays any applicable compact privilege renewal fees.

(c) A licensee providing dentistry or dental hygiene in a remote state under the compact privilege shall function within the scope of practice authorized by the remote state for a dentist or dental hygienist licensed in that state.

(d) A licensee providing dentistry or dental hygiene pursuant to a compact privilege 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, by adverse action revoke or remove a licensee's compact privilege in the remote state for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a remote state imposes an adverse action against a compact privilege that limits the compact privilege, that adverse action applies to all compact privileges in all remote states. A licensee whose compact privilege in a remote state is removed for a specified period of time is not eligible for a compact privilege in any other remote state until the specific

time for removal of the compact privilege has passed and all encumbrance requirements are satisfied.

(e) If a license in a participating state is an encumbered license, the licensee shall lose the compact privilege in a remote state and shall not be eligible for a compact privilege in any remote state until the license is no longer encumbered.

(f) Once an encumbered license in a participating state is restored to good standing, the licensee must meet the requirements of subsection (a) to obtain a compact privilege in a remote state.

(g) If a licensee's compact privilege in a remote state is removed by the remote state, the individual shall lose or be ineligible for the compact privilege in any remote state until the following occur:

(1) The specific period of time for which the compact privilege was removed has ended; and

(2) all conditions for removal of the compact privilege have been satisfied.

(h) Once the requirements of subsection (g) have been met, the licensee must meet the requirements in subsection (a) to obtain a compact privilege in a remote state.

SECTION 5—ACTIVE MILITARY MEMBER OR THEIR SPOUSES

An active military member and their spouse shall not be required to pay to the commission for a compact privilege the fee otherwise charged by the commission. If a remote state chooses to charge a fee for a compact privilege, it may choose to charge a reduced fee or no fee to an active military member and their spouse for a compact privilege.

SECTION 6—ADVERSE ACTIONS

(a) A participating state in which a licensee is licensed shall have exclusive authority to impose adverse action against the qualifying license issued by that participating state.

(b) A participating state may take adverse action based on the significant investigative information of a remote state, so long as the participating state follows its own procedures for imposing adverse action.

(c) Nothing in this compact shall override a participating state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the participating state's laws. Participating states must require licensees who enter any alternative program in lieu of discipline to agree not to practice pursuant to a compact privilege in any other participating state during the term of the alternative program without prior authorization from such other participating state.

(d) Any participating state in which a licensee is applying to practice or is practicing pursuant to a compact privilege may investigate actual or alleged violations of the statutes and regulations authorizing the practice

of dentistry or dental hygiene in any other participating state in which the dentist or dental hygienist holds a license or compact privilege.

(e) A remote state shall have the authority to:

(1) Take adverse actions as set forth in section 4(d) of this compact against a licensee's compact privilege in the state;

(2) in furtherance of its rights and responsibilities under the compact and the commission's rules, issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a state licensing authority in a participating state for the attendance and testimony of witnesses, or the production of evidence from another participating 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 where the witnesses or evidence are located; and

(3) if otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(f) (1) In addition to the authority granted to a participating state by its dentist or dental hygienist licensure act or other applicable state law, a participating state may jointly investigate licensees with other participating states.

(2) Participating states shall share any significant investigative information, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(g) (1) After a licensee's compact privilege in a remote state is terminated, the remote state may continue an investigation of the licensee that began when the licensee had a compact privilege in that remote state.

(2) If the investigation yields what would be significant investigative information had the licensee continued to have a compact privilege in that remote state, the remote state shall report the presence of such information to the data system as required by section 8(b)(6) of this compact as if it was significant investigative information.

SECTION 7—ESTABLISHMENT AND OPERATION OF THE COMMISSION

(a) The compact participating states hereby create and establish a joint government agency whose membership consists of all participating states that have enacted the compact. The commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 11(a) of this compact.

(b) (1) Each participating state shall have and be limited to one com-

missioner selected by that participating state's state licensing authority or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

(2) The commissioner shall be a member or designee of such authority or authorities.

(3) The commission may by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

(4) The commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner.

(5) A participating state's state licensing authority or authorities, as applicable, shall fill any vacancy of its commissioner on the commission within 60 days after the vacancy.

(6) Each commissioner shall be entitled to one vote on all matters that are voted upon by the commission.

(7) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.

(c) The commission shall have the following powers:

(1) Establish the fiscal year of the commission;

(2) establish a code of conduct and conflict of interest policies;

(3) adopt rules and bylaws;

(4) maintain its financial records in accordance with the bylaws;

(5) meet and take such actions as are consistent with the provisions of this compact, the commission's rules and the bylaws;

(6) initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing authority to sue or be sued under applicable law shall not be affected;

(7) maintain and certify records and information provided to a participating state as the authenticated business records of the commission and designate a person to do so on the commission's behalf;

(8) purchase and maintain insurance and bonds;

(9) borrow, accept or contract for services of personnel, including, but not limited to, employees of a participating state;

(10) conduct an annual financial review;

(11) hire employees, elect or appoint officers, fix compensation, define duties, grant such 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;

(12) as set forth in the commission rules, charge a fee to a licensee for the grant of a compact privilege in a remote state and thereafter, as

may be established by commission rule, charge the licensee a compact privilege renewal fee for each renewal period in which that licensee exercises or intends to exercise the compact privilege in that remote state. Nothing in this paragraph shall be construed to prevent a remote state from charging a licensee a fee for a compact privilege or renewals of a compact privilege, or a fee for the jurisprudence requirement, if the remote state imposes such a requirement for the grant of a compact privilege;

(13) accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials and services and receive, utilize and dispose of the same, and at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(14) lease, purchase, retain, own, hold, improve or use any property, real, personal or mixed, or any undivided interest in such property;

(15) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

(16) establish a budget and make expenditures;

(17) borrow money;

(18) appoint committees, including standing committees, which may be composed of members, state regulators, state legislators or their representatives, consumer representatives and such other interested persons as may be designated in this compact and the bylaws;

(19) provide and receive information from, and cooperate with, law enforcement agencies;

(20) elect a chairperson, vice chairperson, secretary and treasurer and such other officers of the commission as provided in the commission's bylaws;

(21) establish and elect an executive board;

(22) adopt and provide to the participating states an annual report;

(23) determine whether a state's enacted compact is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(24) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(d) (1) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(2) Notwithstanding subsection (d)(1), the commission may convene an emergency public meeting by providing at least 24 hours' prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rulemaking under section 9(l) of this compact. The commis-

sion's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

(3) Notice of all commission meetings shall provide the time, date and location of the meeting, and if the meeting is to be held or accessible via telecommunication, videoconference or other electronic means, the notice shall include the mechanism for access to the meeting through such means.

(4) The commission may convene in a closed, non-public meeting for the commission to receive legal advice or to discuss:

(A) Noncompliance of a participating 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 or threatened discipline of a licensee or compact privilege holder by the commission or by a participating state's licensing authority;

(D) current, threatened or reasonably anticipated litigation;

(E) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(F) accusing any person of a crime or formally censuring any person;

(G) trade secrets or commercial or financial information that is privileged or confidential;

(H) information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(I) investigative records compiled for law enforcement purposes;

(J) 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;

(K) legal advice;

(L) matters specifically exempted from disclosure to the public by federal or participating state law; and

(M) other matters as promulgated by the commission by rule.

(5) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(6) 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 such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(e) (1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may accept any and all appropriate sources of revenue, donations and grants of money, equipment, supplies, materials and services.

(3) The commission may levy on and collect an annual assessment from each participating state and impose fees on licensees of participating states when a compact privilege is granted to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each fiscal year for which sufficient revenue is not provided by other sources. The aggregate annual assessment amount for participating states shall be allocated based upon a formula that the commission shall promulgate by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same nor shall the commission pledge the credit of any participating State except by and with the authority of the participating state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(f) (1) The executive board shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties and responsibilities of the executive board shall include:

(A) Overseeing the day-to-day activities of the administration of the compact including compliance with the provisions of the compact, the commission's rules and bylaws;

(B) recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact participating states, fees charged to licensees and other fees;

(C) ensuring compact administration services are appropriately provided, including by contract;

(D) preparing and recommending the budget;

(E) maintaining financial records on behalf of the commission;

(F) monitoring compact compliance of participating states and providing compliance reports to the commission;

(G) establishing additional committees as necessary;

(H) exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending

rules, adopting or amending bylaws and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(I) other duties as provided in the rules or bylaws of the commission.

(2) The executive board shall be composed of up to seven members:

(A) The chairperson, vice chairperson, secretary and treasurer of the commission and any other members of the commission who serve on the executive board shall be voting members of the executive board; and

(B) other than the chairperson, vice chairperson, secretary and treasurer, the commission may elect up to three voting members from the current membership of the commission.

(3) The commission may remove any member of the executive board as provided in the commission's bylaws.

(4) The executive board shall meet at least annually.

(A) An executive board meeting at which it takes or intends to take formal action on a matter shall be open to the public, except that the executive board may meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under subsection (d)(4).

(B) The executive board shall give five business days' notice of its public meetings, posted on its website and as it may otherwise determine to provide notice to persons with an interest in the public matters the executive board intends to address at those meetings.

(5) The executive board may hold an emergency meeting when acting for the commission to:

(A) Meet an imminent threat to public health, safety or welfare;

(B) prevent a loss of commission or participating state funds; or

(C) protect public health and safety.

(g) (1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and 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. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The commission shall defend any member, officer, executive director, employee and 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 employ-

ment, duties or responsibilities, or as determined by the commission 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 prohibit that person from retaining their own counsel at their own expense, 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) Notwithstanding subsection (g)(1), should any member, officer, executive director, employee or representative of the commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error or omission that occurred within the scope of that individual's employment, duties or responsibilities for the commission, or that the person to whom that individual is liable had a reasonable basis for believing occurred within the scope of the individual's employment, duties or responsibilities for the commission, the commission shall indemnify and hold harmless such individual, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of the individual.

(4) Nothing in this subsection shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman act, Clayton act or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the participating states or by the commission.

SECTION 8—DATA SYSTEM

(a) The commission shall provide for the development, maintenance, operation and utilization of a coordinated database and reporting system containing licensure, adverse action and the presence of significant investigative information on all licensees and applicants for a license in participating states.

(b) Notwithstanding any other provision of state law to the contrary, a participating 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 licensee, license applicant or compact privilege and information related thereto;

(4) nonconfidential information related to alternative program participation, the beginning and ending dates of such participation and other information related to such participation;

(5) any denial of an application for licensure and the reasons for such denial, excluding the reporting of any criminal history record information where prohibited by law;

(6) the presence of significant investigative information; and

(7) other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(c) The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a participating state.

(d) Significant investigative information pertaining to a licensee in any participating state shall only be available to other participating states.

(e) It is the responsibility of the participating states to monitor the database to determine whether adverse action has been taken against a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant in any participating state will be available to any other participating state.

(f) Participating 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.

(g) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the participating state contributing the information shall be removed from the data system.

SECTION 9—RULEMAKING

(a) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A commission rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted under this compact, or based upon another applicable standard of review.

(b) The rules of the commission shall have the force of law in each participating state, except that where the rules of the commission conflict with the laws of the participating state that establish the participating state's scope of practice as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

(c) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section of this compact and the rules adopted thereunder. Rules shall become binding as of the date specified by the commission for each rule.

(d) If a majority of the legislatures of the participating states rejects a commission rule or portion of a commission 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, then such rule shall have no further force and effect in any participating state or to any state applying to participate in the compact.

(e) Rules shall be adopted at a regular or special meeting of the commission.

(f) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions and arguments.

(g) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform;

(2) to persons who have requested notice of the commission's notices of proposed rulemaking; and

(3) in such other ways as the commission may by rule specify.

(h) The notice of proposed rulemaking shall include:

(1) The time, date and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date and location of the meeting where the commission will consider and vote on the proposed rule;

(2) if the hearing is held via telecommunication, video conference or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;

(3) the text of the proposed rule and the reason therefor;

(4) a request for comments on the proposed rule from any interested person; and

(5) the manner in which interested persons may submit written comments.

(i) All hearings shall be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(j) Nothing in this section of this compact shall be construed as requiring a separate hearing on each commission rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(k) The commission shall, by majority vote of all commissioners, take final action on the proposed rule based on the rulemaking record.

(1) The commission may adopt changes to the proposed rule if the changes do not enlarge the original purpose of the proposed rule.

(2) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(3) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (l), the effective date of the rule shall be no sooner than 30 days after the commission issuing the notice that it adopted or amended the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' notice, with opportunity to comment, and the usual rulemaking procedures provided in the compact and in this section of this compact 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 subsection, 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 participating state funds;

(3) meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(4) protect public health and safety.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule 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 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.

(n) No participating state's rulemaking requirements shall apply under this compact.

SECTION 10—OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

(a) (1) The executive and judicial branches of state government in each participating state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(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. Nothing in this paragraph shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact or commission rule and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) (1) If the commission determines that a participating state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default and any other action that the commission may take and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other participating states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of participation in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority or authorities, as applicable, and each of the participating states' state licensing authority or authorities, as applicable.

(e) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) Upon the termination of a state's participation in this compact, that state shall immediately provide notice to all licensees of the state, including licensees of other participating states issued a compact privilege to practice within that state, of such termination. The terminated state shall continue to recognize all compact privileges then in effect in that state for a minimum of 180 days after the date of said notice of termination.

(g) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(h) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(i) (1) Upon request by a participating state, the commission shall attempt to resolve disputes related to the compact that arise among participating states and between participating states and nonparticipating states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(j) (1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact and the commission's rules.

(2) By majority vote, the commission may initiate legal action against a participating state in default in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees. The remedies in this paragraph shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting participating state's law.

(3) A participating state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(4) No individual or entity other than a participating state may enforce this compact against the commission.

SECTION 11—EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh participating state.

(1) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the states that enacted the compact prior to the commission convening, the charter participating states, to determine if the statute enacted by each such charter participating state is materially different than the model compact.

(A) A charter participating state whose enactment is found to be materially different from the model compact shall be entitled to the default process set forth in section 10 of this compact.

(B) If any participating state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of participating states should be fewer than seven.

(2) Participating states enacting the compact subsequent to the charter participating states shall be subject to the process set forth in section 7(c)(23) of this compact to determine if their enactments are materially different from the model compact and whether they qualify for participation in the compact.

(3) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(4) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the commission's rules and bylaws 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.

(b) Any participating state may withdraw from this compact by enacting a statute repealing that state's enactment of the compact.

(1) A participating state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority or authorities to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(3) Upon the enactment of a statute withdrawing from this compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all compact privileges to practice within that state granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(c) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a participating state and a non-participating state that does not conflict with the provisions of this compact.

(d) This compact may be amended by the participating states. No

amendment to this compact shall become effective and binding upon any participating state until it is enacted into the laws of all participating states.

SECTION 12—CONSTRUCTION AND SEVERABILITY

(a) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the compact or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected by such holding.

(c) Notwithstanding subsection (b), the commission may deny a state's participation in the compact or, in accordance with the requirements of section 10(b) of this compact, terminate a participating state's participation in the compact, if it determines that a constitutional requirement of a participating state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.

SECTION 13—CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

(a) Nothing in this compact shall prevent or inhibit the enforcement of any other law of a participating state that is not inconsistent with the compact.

(b) Any laws, statutes, regulations or other legal requirements in a participating state in conflict with the compact are superseded to the extent of the conflict.

(c) All permissible agreements between the commission and the participating states are binding in accordance with their terms.

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

Approved April 12, 2024.

CHAPTER 37

HOUSE BILL No. 2628
(Amended by Chapter 100)

AN ACT concerning children and minors; relating to child fatality records; requiring the secretary for children and families to release certain information related to a child fatality when criminal charges are filed with a court alleging that a person caused such fatality; amending K.S.A. 2023 Supp. 38-2212 and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 38-2212 is hereby amended to read as follows: 38-2212. (a) *Principle of appropriate access.* Information contained in confidential agency records concerning a child alleged or adjudicated to be in need of care may be disclosed as provided in this section and shall be disclosed as provided in subsection (e). Disclosure shall in all cases be guided by the principle of providing access only to persons or entities with a need for information that is directly related to achieving the purposes of this code.

(b) *Free exchange of information.* Pursuant to K.S.A. 38-2210, and amendments thereto, the secretary and juvenile intake and assessment agencies shall participate in the free exchange of information concerning a child who is alleged or adjudicated to be in need of care.

(c) *Necessary access.* The following persons or entities shall have access to information from agency records. Access shall be limited to information reasonably necessary to carry out their lawful responsibilities, to maintain their personal safety and the personal safety of individuals in their care, or to educate, diagnose, treat, care for or protect a child alleged to be in need of care. Information authorized to be disclosed pursuant to this subsection shall not contain information that identifies a reporter of a child who is alleged or adjudicated to be a child in need of care.

(1) A child named in the report or records, a guardian ad litem appointed for the child and the child's attorney.

(2) A parent or other person responsible for the welfare of a child, or such person's legal representative.

(3) A court-appointed special advocate for a child, a citizen review board or other advocate that reports to the court.

(4) A person licensed to practice the healing arts or mental health profession in order to diagnose, care for, treat or supervise:

(A) A child whom such service provider reasonably suspects may be in need of care;

(B) a member of the child's family; or

(C) a person who allegedly abused or neglected the child.

(5) A person or entity licensed or registered by the secretary of health and environment or approved by the secretary for children and families to care for, treat or supervise a child in need of care.

(6) A coroner or medical examiner when such person is determining the cause of death of a child.

(7) The state child death review board established under K.S.A. 22a-243, and amendments thereto.

(8) An attorney for a private party who files a petition pursuant to K.S.A. 38-2233(b), and amendments thereto.

(9) A foster parent, prospective foster parent, permanent custodian, prospective permanent custodian, adoptive parent or prospective adoptive parent. In order to assist such persons in making an informed decision regarding acceptance of a particular child, to help the family anticipate problems that may occur during the child's placement, and to help the family meet the needs of the child in a constructive manner, the secretary shall seek and shall provide the following information to such persons as the information becomes available to the secretary:

(A) Strengths, needs and general behavior of the child;

(B) circumstances that necessitated placement;

(C) information about the child's family and the child's relationship to the family that may affect the placement;

(D) important life experiences and relationships that may affect the child's feelings, behavior, attitudes or adjustment;

(E) medical history of the child, including third-party coverage that may be available to the child; and

(F) education history, to include present grade placement, special strengths and weaknesses.

(10) The state protection and advocacy agency as provided by K.S.A. 65-5603(a)(10) or K.S.A. 74-5515(a)(2)(A) and (B), and amendments thereto.

(11) Any educational institution to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees.

(12) Any educator to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils.

(13) Any other federal, state or local government executive branch entity or any agent of such entity, having a need for such information in order to carry out such entity's responsibilities under the law to protect children from abuse and neglect.

(d) *Specified access.* The following persons or entities shall have access to information contained in agency records as specified. Information authorized to be disclosed pursuant to this subsection shall not contain information that identifies a reporter of a child who is alleged or adjudicated to be a child in need of care.

(1) Information from confidential agency records of the Kansas department for children and families, a law enforcement agency or any ju-

venile intake and assessment worker of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by ⅔ of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. The secretary for children and families shall not summarize the outcome of department actions regarding a child alleged to be a child in need of care in information available to members of such committees.

(2) The secretary for children and families may summarize the outcome of department actions regarding a child alleged to be a child in need of care to a person having made such report.

(3) Information from confidential reports or records of a child alleged or adjudicated to be a child in need of care may be disclosed to the public when:

(A) The individuals involved or their representatives have given express written consent; or

(B) the investigation of the abuse or neglect of the child or the filing of a petition alleging a child to be in need of care has become public knowledge, ~~provided, however,~~ *except* that the agency shall limit disclosure to confirmation of procedural details relating to the handling of the case by professionals.

(e) *Law enforcement access.* The secretary shall disclose confidential agency records of a child alleged or adjudicated to be a child in need of care, as described in K.S.A. 38-2209, and amendments thereto, to the law enforcement agency investigating the alleged or substantiated report or investigation of abuse or neglect, regardless of the disposition of such report or investigation. Such records shall include, but not be limited to, any information regarding such report or investigation, records of past reports or investigations concerning such child and such child's siblings and the perpetrator or alleged perpetrator and the name and contact information of the reporter or persons alleging abuse or neglect and case managers, investigators or contracting agency employees assigned to or investigating such report. Such records shall only be used for the purposes of investigating the alleged or substantiated report or investigation of abuse or neglect.

(f) *Court order.* Notwithstanding the provisions of this section, a court of competent jurisdiction, after in camera inspection, may order disclo-

sure of confidential agency records pursuant to a determination that the disclosure is in the best interests of the child who is the subject of the reports or that the records are necessary for the proceedings of the court. The court shall specify the terms of disclosure and impose appropriate limitations.

(g) (1) Notwithstanding any other provision of law to the contrary, except as provided in paragraph (6), in the event that child abuse or neglect results in a child fatality or near fatality, reports or records of a child alleged or adjudicated to be in need of care received by the secretary, a law enforcement agency or any juvenile intake and assessment worker shall become a public record and subject to disclosure pursuant to K.S.A. 45-215, and amendments thereto.

(2) Within seven days of receipt of a request in accordance with the procedures adopted under K.S.A. 45-220, and amendments thereto, the secretary shall notify any affected individual that an open records request has been made concerning such records. The secretary or any affected individual may file a motion requesting the court to prevent disclosure of such record or report, or any select portion thereof. Notice of the filing of such motion shall be provided to all parties requesting the records or reports, and such party or parties shall have a right to hearing, upon request, prior to the entry of any order on such motion. If the affected individual does not file such motion within seven days of notification, and the secretary has not filed a motion, the secretary shall release the reports or records. If such motion is filed, the court shall consider the effect such disclosure may have upon an ongoing criminal investigation, a pending prosecution, or the privacy of the child, if living, or the child's siblings, parents or guardians, and the public's interest in the disclosure of such records or reports. The court shall make written findings on the record justifying the closing of the records and shall provide a copy of the journal entry to the affected parties and the individual requesting disclosure pursuant to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(3) Notwithstanding the provisions of paragraph (2), in the event that child abuse or neglect results in a child fatality *or criminal charges are filed with a court alleging that a person caused a child fatality*, the secretary shall release the following information in response to an open records request made pursuant to the Kansas open records act, within seven business days of receipt of such request, as allowed by applicable law:

(A) Age and sex of the child;

(B) date of the fatality;

(C) a summary of any previous reports of abuse or neglect received by the secretary involving the child, along with the findings of such reports; and

(D) any department recommended services provided to the child.

(4) Notwithstanding the provisions of paragraph (2), in the event that a child fatality occurs while such child was in the custody of the secretary for children and families, the secretary shall release the following information in response to an open records request made pursuant to the Kansas open records act, within seven business days of receipt of such request, as allowed by applicable law:

(A) Age and sex of the child;

(B) date of the fatality; and

(C) a summary of the facts surrounding the death of the child.

(5) For reports or records requested pursuant to this subsection, the time limitations specified in this subsection shall control to the extent of any inconsistency between this subsection and K.S.A. 45-218, and amendments thereto. As used in this section, "near fatality" means an act that, as certified by a person licensed to practice medicine and surgery, places the child in serious or critical condition.

(6) Nothing in this subsection shall allow the disclosure of reports, records or documents concerning the child and such child's biological parents that were created prior to such child's adoption. Nothing herein is intended to require that an otherwise privileged communication lose its privileged character.

Sec. 2. K.S.A. 2023 Supp. 38-2212 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 12, 2024.

CHAPTER 38

HOUSE BILL No. 2754

AN ACT concerning counties; relating to public health; authorizing counties to exempt from the requirement to perform school safety inspections; amending K.S.A. 19-101a and K.S.A. 2023 Supp. 65-202 and repealing the existing sections.

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

Section 1. K.S.A. 19-101a is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not affect the courts located therein.

(3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271 – 74th congress, or amendments thereof.

(6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(7) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 through 12-195, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(8) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(9) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(10) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing sub-

stitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(12) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(13) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(14) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(16) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(17) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(18) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(19) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(20) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(21) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(22) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(23) Counties may not exempt from or effect changes in K.S.A. 19-202(b), and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 19-204(b), and amendments thereto.

(25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(26) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(27) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, 65-3001 through 65-3028, and amendments thereto.

(28) Counties may not exempt from or effect changes in K.S.A. 80-121, and amendments thereto.

(29) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(30) Counties may not exempt from or effect changes in the Kansas 911 act.

(31) Counties may not exempt from or effect changes in K.S.A. 26-601, and amendments thereto.

(32) (A) Counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).

(B) Counties may adopt resolutions which are not in conflict with the Kansas liquor control act.

(33) (A) Counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).

(B) Counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.

(34) Counties may not exempt from or effect changes in the Kansas lottery act.

(35) Counties may not exempt from or effect changes in the Kansas expanded lottery act.

(36) Counties may neither exempt from nor effect changes to the eminent domain procedure act.

(37) Any county granted authority pursuant to the provisions of K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be subject to the limitations and prohibitions imposed under K.S.A. 19-5001 through 19-5005, and amendments thereto.

(38) Except as otherwise specifically authorized by K.S.A. 19-5001 through 19-5005, and amendments thereto, counties may not exercise any authority granted pursuant to K.S.A. 19-5001 through 19-5005, and amendments thereto, including the imposition or levy of any retailers' sales tax.

(39) Counties may not exempt from or effect changes in K.S.A. 65-201 and 65-202*(a), (b), (d), (e) and (f)*, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no

statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 2. K.S.A. 2023 Supp. 65-202 is hereby amended to read as follows: 65-202. (a) The local health officer in each county throughout the state, immediately after such officer's appointment, shall take the same oath of office prescribed by law for the county officers, shall give bond of $500 conditioned for the faithful performance of the officer's duties, shall keep an accurate record of all the transactions of such office, shall turn over to the successor in office or to the county or joint board of health selecting such officer, on the expiration of such officer's term of office, all records, documents and other articles belonging to the office and shall faithfully account to *the* board of county commissioners and to the county and state for all moneys coming into the office. Such officer shall notify the secretary of health and environment of such officer's appointment and qualification, and provide the secretary with such officer's contact information.

(b) Such officer shall receive and distribute without delay in the county all forms from the secretary of health and environment to the rightful persons, all returns from persons licensed to practice medicine and surgery, assessors and local boards to said secretary, shall keep an accurate record of all of the transactions of such office and shall turn over all records and documents kept by such officer, the successor in office, or to the county or joint board electing such officer, on the expiration of the term of office.

(c) The local health officer shall upon the opening of the fall term of school, make a sanitary inspection of each school building and grounds, and shall make such additional inspections as are necessary to protect the public health of the students of the school.

~~(c)~~*(d)* (1) Such officer shall make an investigation of each case of smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and such other acute infectious, contagious or communicable diseases as may be required, and shall use all known measures to prevent the spread of any

such infectious, contagious or communicable disease, and shall perform such other duties as this act, the county or joint board, board of health or the secretary of health and environment may require.

(2) Any order issued by the local health officer, including orders issued as a result of an executive order of the governor, on behalf of a county regarding the remediation of any infectious disease may be reviewed, amended or revoked by the board of county commissioners of any county affected by such order in the manner provided by K.S.A. 65-201(b), and amendments thereto.

(e) Such officer shall receive compensation as set by the board and with the approval of the board of health may employ a skilled professional nurse and other additional personnel whenever deemed necessary for the protection of the public health.

(f) Any failure or neglect of the local health officer to perform any of the duties prescribed in this act, the officer may be removed from office by the county board of health. In addition to removal from office, for any failure or neglect to perform any of the duties prescribed by this act, the local health officer shall be deemed guilty of a misdemeanor and, upon conviction, be fined not less $10 nor more than $100 for each and every offense.

Sec. 3. K.S.A. 19-101a and K.S.A. 2023 Supp. 65-202 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 39

HOUSE BILL No. 2491

AN ACT concerning the law enforcement training center; abolishing the law enforcement training center fund; transferring all moneys and liabilities of such fund to the state general fund; crediting moneys to the state general fund that had previously been credited to the law enforcement training center fund; amending K.S.A. 8-145, 8-1,177, 12-4117, 20-362 and 74-5619 and repealing the existing sections.

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

Section 1. K.S.A. 8-145 is hereby amended to read as follows: 8-145. (a) All registration and certificates of title fees shall be paid to the division of vehicles, a contractor of the division or the county treasurer of the county in which the applicant for registration resides or has an office or principal place of business within this state. The division, contractor or the county treasurer shall issue a receipt to the applicant for such fees paid.

(b) The county treasurer, division or contractor shall deposit $.75 out of each license application, $.75 out of each application for transfer of license plate and $2 out of each application for a certificate of title, collected under this act, in a special fund, which fund is hereby appropriated for the use of the county treasurer, division or contractor in paying for necessary help and expenses incidental to the administration of duties in accordance with the provisions of this law. The county treasurer shall receive extra compensation for the services performed in administering the provisions of this act, which compensation shall be in addition to any other compensation provided by any other law, except that the county treasurer shall receive as additional compensation for administering the motor vehicle title and registration laws and fees, a sum computed as follows: The county treasurer, during the month of December, shall determine the amount to be retained for extra compensation not to exceed the following amounts each year for calendar year 2006 or any calendar year thereafter: The sum of $110 per hundred registrations for the first 5,000 registrations; the sum of $90 per hundred registrations for the second 5,000 registrations; the sum of $5 per hundred for the third 5,000 registrations; and the sum of $2 per hundred registrations for all registrations thereafter. In no event, however, shall any county treasurer be entitled to receive more than $15,000 additional annual compensation.

If more than one person shall hold the office of county treasurer during any one calendar year, such compensation shall be prorated among such persons in proportion to the number of weeks served. The total amount of compensation paid the treasurer together with the amounts expended in paying for other necessary help and expenses incidental to the administration of the duties of the county treasurer in accordance with the provisions of this act, shall not exceed the amount deposited in such special

fund. Any balance remaining in such fund at the close of any calendar year shall be withdrawn and credited to the general fund of the county prior to June 1 of the following calendar year.

(c) The county treasurer, division or contractor shall remit the remainder of all such fees collected, together with the original copy of all applications, to the secretary of revenue. The secretary of revenue shall remit all such fees remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund, except as provided in subsection (d).

(d) (1) Three dollars and fifty cents of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each certificate of title fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3 to the VIPS/CAMA technology hardware fund.

(2) For repossessed vehicles, $3 of each certificate of title fee collected shall be retained by the contractor or county treasurer who processed the application.

(3) Three dollars and fifty cents of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3.50 to the Kansas highway patrol motor vehicle fund. Three dollars of each reassignment form fee collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $3 to the VIPS/CAMA technology hardware fund.

(4) Four dollars of each division of vehicles modernization surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $4 to the state highway fund.

(5) Two dollars of each Kansas highway patrol staffing and training surcharge collected and remitted to the secretary of revenue, shall be remitted to the state treasurer who shall credit such $2 to the Kansas highway patrol staffing and training fund.

(6) One dollar and twenty-five cents of each ~~law enforcement training center~~ surcharge collected and remitted to the secretary of revenue *pursuant to K.S.A. 8-1,177, and amendments thereto*, shall be remitted to the state treasurer who shall credit such $1.25 to the ~~law enforcement training center~~ *state general* fund.

(7) Fees collected in K.S.A. 8-135 and 8-145, and amendments thereto, that are collected by the division for commercial motor vehicles or vehicles that are part of a commercial fleet, shall be remitted to the state

treasurer, who shall credit such amounts to the commercial vehicle administrative fund.

(8) Fees collected in K.S.A. 8-135 and 8-145, and amendments thereto, that are collected by the division for vehicles that are part of a fleet rental pursuant to K.S.A. 8-1,189, and amendments thereto, shall be remitted to the state treasurer, who shall credit such amounts to the fleet rental vehicle administration fund.

Sec. 2. K.S.A. 8-1,177 is hereby amended to read as follows: 8-1,177. In addition to any registration fee prescribed under article 1 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, all applicants for vehicle registration shall pay, at the time of registration, a nonrefundable ~~law enforcement training center~~ surcharge in the amount of $1.25 for each vehicle being registered.

Sec. 3. K.S.A. 12-4117 is hereby amended to read as follows: 12-4117. (a) In each case filed in municipal court other than a nonmoving traffic violation, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in an amount of $22.50 shall be assessed and such assessment shall be credited as follows:

One dollar to the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, $11.50 to the ~~law enforcement training center fund established pursuant to K.S.A. 74-5619, and amendments thereto~~ *state general fund*, $5 to the Kansas commission on peace officers' standards and training fund established by K.S.A. 74-5619, and amendments thereto, $2 to the juvenile alternatives to detention fund established pursuant to K.S.A. 79-4803, and amendments thereto, to be expended for operational costs of facilities for the detention of juveniles, $.50 to the protection from abuse fund established pursuant to K.S.A. 74-7325, and amendments thereto, $.50 to the crime victims assistance fund established pursuant to K.S.A. 74-7334, and amendments thereto, $1 to the trauma fund established pursuant to K.S.A. 75-5670, and amendments thereto, and $1 to the department of corrections forensic psychologist fund established pursuant to K.S.A. 75-52,151, and amendments thereto.

(b) The judge or clerk of the municipal court shall remit the appropriate assessments received pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the local law enforcement training reimbursement fund, ~~the law enforcement training center fund,~~ the Kansas commission on peace officers' standards and training fund, the juvenile alternatives to detention fund, the crime victims assistance fund, the trauma fund ~~and~~, the department of corrections forensic psychologist fund *and the state general fund* as provided in this section.

(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.

Sec. 4. K.S.A. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to $10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to $10 for each $46 or $76 docket fee paid pursuant to ~~K.S.A. 61-4001, or~~ K.S.A. 61-2704 ~~or~~, 61-2709 *or 61-4001*, and amendments thereto; and

(3) a sum equal to $5 for each $26 docket fee paid pursuant to K.S.A. ~~61-4001 or~~ 61-2704 *or 61-4001*, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to $2 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month for cases filed in the county and a sum equal to $1 for each fee paid pursuant to K.S.A. 28-170(c), and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) ~~To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the law enforcement training center fund a sum equal to $15 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.~~

~~(e)~~ To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury a sum equal to the balance that remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified in subsections (a), (b), (c) and (d). During the fiscal year ending June 30, 2022, and each fiscal year thereafter, of the remainder, the state treasurer shall deposit and credit the first $1,500,000 to the electronic filing and management fund created in K.S.A. ~~2022 Supp.~~ 20-1a20, and amendments thereto. Of the balance that remains after deduction of the amounts specified in this subsection, the state treasurer shall deposit and credit the remainder to the state general fund.

Sec. 5. K.S.A. 74-5619 is hereby amended to read as follows: 74-5619. (a) (1) ~~There is hereby created in the state treasury the law enforcement training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law~~ *On July 1, 2024: (A) The director of accounts and reports shall transfer all moneys in the law enforcement training center fund established pursuant to this section, prior to its amendment by this act, to the state general fund; (B) all liabilities of the law enforcement training center fund are hereby transferred to and imposed on the state general fund; and (C) the law enforcement training center fund is hereby abolished.*

(2) All moneys received for assessments as provided pursuant to K.S.A. 74-5607, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~law enforcement training center~~ *state general* fund.

(b) There is hereby created in the state treasury the Kansas commission on peace officers' standards and training fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose of the operation of the commission to carry out its powers and duties as mandated by law. The director may apply for and receive public or private grants, gifts and donations of money for the commission. All moneys received from grants, gifts and donations shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas commission on peace officers' standards and training fund.

(c) The moneys credited to the ~~funds created in subsections (a) and (b)~~ *Kansas commission on peace officers' standards and training fund* shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the moneys deposited in ~~these funds~~ *the fund* shall remain intact and inviolate for the purposes set forth in this section.

(d) This section shall be part of and supplemental to the Kansas law enforcement training act.

Sec. 6. K.S.A. 8-145, 8-1,177, 12-4117, 20-362 and 74-5619 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 40

HOUSE BILL No. 2477

AN ACT concerning agriculture; relating to environmental remediation; increasing the maximum reimbursement from the Kansas agricultural remediation fund from $200,000 to $300,000 for an eligible person; increasing the amount available to the Kansas agricultural remediation board for administrative overhead expenses from $150,000 to $175,000; amending K.S.A. 2-3708 and 2-3710 and repealing the existing sections.

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

Section 1. K.S.A. 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 K.S.A. 2-3716, 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, *may receive* reimbursement per site *as provided herein and evidenced by receipts for any eligible corrective action costs, but the total reimbursement* shall not exceed *$300,000. If an eligible person has paid at least $2,000 for eligible corrective action costs at a site, such person may receive reimbursement in* an amount equal to: (A) 90% of total eligible corrective action costs greater than ~~$1,000 and less than or equal to~~ *$2,000 until such person has received* $100,000; plus (B) *additional reimbursement in an amount equal to* 80% of *additional* total eligible corrective action costs ~~greater than $100,000 and less than or equal to $200,000~~ *until such person has received an additional $200,000 in reimbursement*. The total amount reimbursed for any one site shall not exceed ~~$200,000 within a five-year period or as otherwise set forth by the board~~ *$300,000, except that the Kansas agricultural remediation board may*, pursuant to rules and regulations, ~~unless~~ *set forth a different amount that is less than or equal to $300,000.* ~~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 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 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. 2. K.S.A. 2-3710 is hereby amended to read as follows: 2-3710. The *Kansas agricultural remediation* board shall have the following powers, duties and functions:

(a) Administer the fund and the remediation reimbursement program.

(b) Subject to K.S.A. 2-3701 through 2-3714, and amendments thereto, adopt rules and regulations concerning the terms and conditions of any reimbursements from the fund.

(c) Adopt rules and regulations establishing, for purposes of the remediation linked deposit loan program and the remediation reimbursement program, criteria for classification and prioritization of properties where contamination was caused by a release of agricultural or specialty chemicals, or both. Classification and prioritization may account for the criteria contained in Kansas department of health and environment's voluntary clean up and property redevelopment program and state cooperator program.

(d) Establish operating standards and procedures ~~which~~ *that* shall include, but not be limited to, the following:

(1) With respect to the remediation linked deposit loan program, provisions governing board approval of projects for which applications for loans may be made;

(2) with respect to the remediation reimbursement program, provisions governing application procedures, determination of eligible corrective action costs, determination of ineligible corrective costs and reimbursement or payment of eligible corrective action costs; and

(3) with respect to both programs, provisions governing conflicts of interest, appeals procedures, review and priority determinations and enforcement of the provisions of K.S.A. 2-3701 through 2-3714, and amendments thereto.

(e) Appoint or contract for qualified administrative services subject to the limitation that expenditures from the fund for the administrative expenses of the board and the programs established by K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed ~~$150,000~~ *$175,000* in any fiscal year.

(f) Annually provide an independent audit of the fund.

(g) On or before February 1 of each year, submit to the governor, the senate standing committee on ~~energy~~ *agriculture* and natural resources *or any successor committee* and the house standing committee on ~~environment~~ *agriculture and natural resources or any successor committee* an

annual report of the activities and reimbursements for which money from the fund has been expended during the previous fiscal year, including a copy of the independent audit.

Sec. 3. K.S.A. 2-3708 and 2-3710 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 41

HOUSE BILL No. 2483

AN ACT concerning audits; relating to the legislative division of post audit; eliminating the requirement for such division to conduct a recurring 911 implementation audit and a recurring Kansas public employees retirement system audit limiting recurring economic development incentive audits to new programs providing more than $50,000 of annual incentives that have not previously been audited and have been recommended for review by the house or senate commerce committees; amending K.S.A. 12-5377 and 46-1137 and repealing the existing sections; also repealing K.S.A. 46-1136.

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

Section 1. K.S.A. 12-5377 is hereby amended to read as follows: 12-5377. (a) The receipts and disbursements of the LCPA shall be audited yearly by a licensed municipal accountant or certified public accountant.

(b) The LCPA may require an audit of any provider's books and records concerning the collection and remittance of fees pursuant to this act. The cost of any such audit shall be paid from the 911 operations fund.

~~(c) (1) On or before December 31, 2018, and at least once every five years thereafter, the division of post audit shall conduct an audit of the 911 system to determine: (A) Whether the moneys received by PSAPs pursuant to this act are being used appropriately; (B) whether the amount of moneys collected pursuant to this act is adequate; and (C) the status of 911 service implementation. The auditor to conduct such audit shall be specified in accordance with K.S.A. 46-1122, and amendments thereto.~~

~~(2) The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the division of post audit shall be reimbursed from the 911 operations fund for the amount approved by the contract audit committee. The audit report shall be submitted to the 911 coordinating council, the LCPA, the house of representatives committee on energy, utilities and telecommunications and the senate committee on utilities.~~

~~(d) (1) On or before December 31, 2018, the division of post audit shall conduct an audit of the budget and expenditures of the 911 coordinating council. In conducting such audit, the division shall examine: (A) The annual expenses and financial needs, including personnel, of the council; (B) the total annual operating expenses of the council that are included in the 2.5% cap on expenditures pursuant to K.S.A. 12-5364(i), and amendments thereto; (C) the current and projected contractual expenses of the council; (D) the expenditures and distribution of moneys from the 911 state grant fund by the council; and (E) whether the moneys expended by the council are being used pursuant to this act. The auditor,~~

~~to conduct such audit, shall be specified in accordance with K.S.A. 46-1122, and amendments thereto.~~

~~(2) The post auditor shall compute the reasonably anticipated cost of providing the audit pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the division of post audit shall be reimbursed from the 911 operations fund for the amount approved by the contract audit committee. The audit report shall be submitted to the 911 coordinating council, the house of representatives committee on energy, utilities and telecommunications and the senate committee on utilities.~~

~~(e) The legislature shall review this act at the regular 2019 legislative session and at the regular legislative session every five years thereafter.~~

Sec. 2. K.S.A. 46-1137 is hereby amended to read as follows: 46-1137. (a) Under the authority of this section and the legislative post audit act, and subject to appropriations therefor, the legislative post audit committee shall direct the post auditor and the division of post audit to conduct a systematic and comprehensive review, analysis and evaluation, under the provisions of the legislative post audit act, of *all new* economic development incentive programs, as defined in K.S.A. 2023 Supp. 74-50,226, and amendments thereto, *that provide more than $50,000 of annual incentives from administering agencies, have not previously been audited pursuant to this section and have been recommended for review by either the house committee on commerce, labor and economic development or the senate committee on commerce* as selected by the legislative post audit committee. The evaluation procedure established by this section is intended to enhance and facilitate the ability of the legislature to fulfill its responsibility to evaluate and oversee economic development incentive programs. The oversight of economic development incentive programs is intended to remain with the legislature, independent of the legislative post audit committee. This section shall not be construed to limit, in any way, oversight of economic development incentive programs to the legislative post audit committee.

(b) The evaluations shall be considered within the meaning of the term audit for purposes of the legislative post audit act and shall be conducted by the post auditor and the division of legislative post audit pursuant to a schedule developed by the legislative post audit committee, such that all ~~economic development incentive programs shall be reviewed every three years, and~~ new economic development incentive programs *described in subsection (a)* shall be reviewed ~~the year~~ *four years* after the program commences~~, and then every three years thereafter~~ *or, subject to subsection (c), not later than the fifth year after the program commences*.

(c) The timing and extent of the evaluations may be subject to adjustment by the legislative post audit committee in a manner consistent with

the ~~requirements~~ *intent* of this section ~~as~~ *if* necessary to conform with resources available to the post auditor in consideration of the demands of other duties under the legislative post audit act.

~~(e)~~*(d)* In conducting such evaluations, the post auditor and the division of post audit 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, and shall be subject to the same duty of confidentiality as provided by the legislative post audit act.

~~(d)~~*(e)* Evaluations shall be conducted with the goal of enabling evidence-based policy determinations by the legislature with respect to economic development incentive programs. To the extent reasonably possible, evaluations shall utilize direct and documented evidence and primary-source instead of secondary source data. An evaluation shall include, as directed by the post audit committee:

(1) A description of the economic development incentive program, its history and its goals;

(2) a literature review of the effectiveness of this type of incentive program, including an inventory of similar incentive programs in other states;

(3) an estimate of the economic and fiscal impact of the incentive program;

This estimate may take into account the following considerations in addition to other relevant factors:

(A) The extent to which the incentive program changes business behavior;

(B) the results of the incentive program for the economy of Kansas as a whole, including both positive direct and indirect impacts and any negative effects on other Kansas businesses;

(C) a comparison with the results of other incentive programs or other economic development strategies with similar goals;

(D) an assessment of whether protections are in place to ensure that the fiscal impact of the incentive program does not substantially increase beyond the state's means or expectations in future years;

(E) an assessment of the incentive program's design and whether the incentive program is being effectively administered in accordance with the program's enacting statute or statutes;

(F) an assessment of whether the incentive program is achieving its goals;

(G) recommendations for any changes to state policy, rules and regulations or statutes that would allow the incentive program to be more easily or conclusively evaluated in the future. These recommendations may include changes to collection, reporting and sharing of data, and revisions or clarifications to the goals of the incentive program;

(H) a return on investment calculation for the economic development incentive program. For purposes of this paragraph, "return on investment calculation" means analyzing the cost to the state or political subdivision for providing the economic development incentive program and analyzing the benefits realized by the state or political subdivision from providing the economic development incentive program;

(I) the methodology and assumptions used in carrying out the reviews, analyses and evaluations required under this subsection, including an analysis of multiplier effects and a critique of the multiplier effect determination methodologies utilized in the evaluation report, including any determinations made using standard industry software models, and any respective limitations or potential effects of such methods on outcomes; and

(J) an analysis of significant opportunity costs of the incentive program at the state and local level;

(4) any other information that the legislative post audit committee deems necessary to assess the effectiveness of the incentive program and whether it is achieving the goals of the incentive program; and

(5) all information, after redaction, as necessary, by the post auditor to remove information confidential under state or federal law, required for publication pursuant to K.S.A. 2023 Supp. 74-50,227, and amendments thereto, with respect to the economic development incentive program being evaluated.

~~(e)~~*(f)* The post auditor shall prepare and submit a written report with respect to each evaluation to the legislative post audit committee as provided by the legislative post audit act and, in addition, shall prepare and provide any redacted information, with respect to the economic incentive program evaluated, required for publication by the secretary of commerce pursuant to K.S.A. 2023 Supp. 74-50,227, and amendments thereto, to the secretary of commerce if such information is not otherwise available to the secretary of commerce.

~~(f)~~*(g)* This section shall be a part of and supplemental to the legislative post audit act.

Sec. 3. K.S.A. 12-5377, 46-1136 and 46-1137 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 42

HOUSE BILL No. 2358
(Amended by Chapter 100)

AN ACT concerning public health; relating to the uniform vital statistics act; certification of an individual's cause of death; permitting cause of death certifiers to provide certification thereto; amending K.S.A. 65-2401 and 65-2412 and repealing the existing sections.

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

Section 1. K.S.A. 65-2401 is hereby amended to read as follows: 65-2401. As used in this act:

(a) "Vital statistics" includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to birth, adoption, legitimation, death, stillbirth, marriage, divorce, annulment of marriage, induced termination of pregnancy, and data incidental thereto.

(b) "Live birth" means the complete expulsion or extraction from its mother of a human child, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(c) "Gestational age" means the age of the human child as measured in weeks as determined by either the last date of the mother's menstrual period, a sonogram conducted prior to the 20th week of pregnancy or the confirmed known date of conception.

(d) "Stillbirth" means any complete expulsion or extraction from its mother of a human child the gestational age of which is not less than 20 completed weeks, resulting in other than a live birth, as defined in this section, and which is not an induced termination of pregnancy.

(e) "Induced termination of pregnancy" means abortion, as defined in K.S.A. 65-6701, and amendments thereto.

(f) "Dead body" means a lifeless human body or such parts of a human body or the bones thereof from the state of which it reasonably may be concluded that death recently occurred.

(g) "Person in charge of interment" means any person who places or causes to be placed a stillborn child or dead body or the ashes, after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes thereof.

(h) "Secretary" means the secretary of health and environment.

(i) "Cause of death certifier" means a person licensed to practice medicine and surgery by the state board of healing arts, a physician assistant licensed by the state board of healing arts, an advanced practice registered nurse licensed by the state board of nursing or a district coroner, deputy coroner or special deputy coroner.

Sec. 2. K.S.A. 65-2412 is hereby amended to read as follows: 65-2412. (a) A death certificate or stillbirth certificate for each death or stillbirth ~~which~~ *that* occurs in this state shall be filed with the state registrar within three days after such death and prior to removal of the body from the state and shall be registered by the state registrar if such death certificate or stillbirth certificate has been completed and filed in accordance with this section. If the place of death is unknown, a death certificate shall be filed indicating the location where the body was found as the place of death. A certificate shall be filed within three days after such occurrence; if death occurs in a moving conveyance, the death certificate shall record the location where the dead body was first removed from such conveyance as the place of death.

(b) *(1)* The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. Such person shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the ~~medical~~ certification of cause of death from ~~the physician~~ *the cause of death certifier who was* last in attendance prior to burial.

(2) The death certificate filed with the state registrar shall be the official death record, except that a funeral director licensed pursuant to K.S.A. 65-1714, and amendments thereto, may verify as true and accurate information pertaining to a death on a form provided by the state registrar, and any such form, verified within 21 days of date of death, shall be prima facie evidence of the facts ~~therein stated for purposes of~~ *pertaining to* establishing *such* death.

(3) The secretary of health and environment shall fix and collect a fee for each form provided *to* a funeral director pursuant to this subsection. The fee shall be collected at the time the form is provided *to* the funeral director and shall be in the same amount as the fee for a certified copy of a death certificate.

(c) When death occurred without medical attendance or when inquiry is required by the laws relating to postmortem examinations, the coroner shall investigate the cause of death and shall complete and sign the ~~medical~~ certification *of cause of death* within 24 hours after receipt of the death certificate or as provided in K.S.A. 65-2414, and amendments thereto.

(d) In every instance a certificate shall be filed prior to interment or disposal of the body.

(e) ~~On and after January 1, 2017,~~ Any death certificate, stillbirth certificate or ~~medical~~ certification *of cause of death* required to be filed by this section shall be filed through the Kansas electronic death registration system maintained by the Kansas department of health and environment.

Sec. 3. K.S.A. 65-2401 and 65-2412 are hereby repealed.

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

Approved April 12, 2024.

CHAPTER 43

HOUSE BILL No. 2615

AN ACT concerning the publication of state laws and rules and regulations; relating to the publishing, printing and distributing thereof; removing state printer from timeline requirements for printing session laws; providing statewide elected officials and legislators to receive statute books and supplements upon request; requiring all administrative rules and regulations to be published electronically and eliminating the printing of volumes and supplements thereof; providing for the authenticating, preparing of searchable base and setting of prices of administrative rules and regulations by the secretary of state; amending K.S.A. 45-315, 77-165, 77-423, 77-429 and 77-435 and K.S.A. 2023 Supp. 77-138 and 77-430 and repealing the existing sections; also repealing K.S.A. 77-424 and 77-428 and K.S.A. 2023 Supp. 77-430a and 77-431.

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

Section 1. K.S.A. 45-315 is hereby amended to read as follows: 45-315. 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~~ *provide for the publication* 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 *shall provide for the printing and delivery of* bound copies *of the session laws* as provided by law.

Sec. 2. K.S.A. 2023 Supp. 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~~ *distribute such volumes* 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 one complete set of the Kansas Statutes Annotated to each new member of the legislature at each regular session~~,~~ 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 *to*: (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, *upon request by the governor, lieutenant governor or 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 *as provided for* 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, *as provided for* 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. 3. K.S.A. 77-165 is hereby amended to read as follows: 77-165. (a) Such number of copies of the cumulative supplements for each volume of the Kansas Statutes Annotated, corresponding as nearly as possible in size and page with the current bound volumes, as is specified by the revisor of statutes, subject to available appropriations, shall be printed by the director of printing and delivered to the secretary of state. Each year, such number of sets of the general index paperbound volume or volumes as is specified by the revisor of statutes, subject to available appropriations, shall be printed by the director of printing and delivered to the secretary of state. For purposes of this section, the general index paperbound volume or volumes shall be considered supplements. The revisor of statutes, with the approval of the legislative coordinating council, may provide for printing and delivery of additional copies of supplements to volumes of the Kansas Statutes Annotated.

(b) The secretary of state shall ~~dispose of~~ *distribute* full sets of supplements, including the general index paperbound volume or volumes, as follows:

First, by delivering to all state officers, county officers and other departments and officers the same number of sets and in the same manner as provided by K.S.A. 77-138, and amendments thereto, for the distribution of volumes of the Kansas Statutes Annotated ~~and by delivering to each member of the legislature three sets of such supplements~~.

Second, by delivering a set to each returning member of the legislature at each regular session, upon request by such member of the legislature. The secretary of state shall send an email to each returning member of the legislature to such member's official legislative email account asking the member whether such member requests a set of supplements. If the secretary of state does not receive a response to any such email, the secretary of state shall attempt to contact such member at least two more times via such member's official legislative email account to determine whether the member requests a set of supplements.

Third, the balance of such supplements, including as a part thereof the general index paperbound volume or volumes, after such distribution, shall be kept by the secretary of state for sale. Supplements for individual volumes, except index volumes, shall be sold at the per volume price fixed therefor by the legislative coordinating council *as provided for* under this section. Complete sets of cumulative supplements, including the general

index volume, shall be sold at the complete set price fixed therefor by the legislative coordinating council *as provided for* under this section.

(c) The secretary of state shall remit all moneys received from the sale of supplements 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.

(d) The legislative coordinating council shall fix the per volume and complete set prices of the cumulative supplements for the Kansas Statutes Annotated sold, *as provided for* under this section, to recover the costs of printing and binding such supplements. The legislative coordinating council shall revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 4. K.S.A. 77-423 is hereby amended to read as follows: 77-423. There is hereby created a state rules and regulations board consisting of the attorney general or the attorney general's designee, the secretary of state or the secretary of state's designee, the secretary of administration or the secretary of administration's designee, the chairperson of the joint committee on administrative rules and regulations or a member of the joint committee designated by the chairperson from the same house of the legislature as the chairperson, the ~~vice-chairperson~~ *vice chairperson* of the joint committee on administrative rules and regulations or a member of the joint committee designated by the ~~vice-chairperson~~ *vice chairperson* from the same house of the legislature as the ~~vice-chairperson~~ *vice chairperson*, the ranking minority member of the joint committee on administrative rules and regulations or a member of the joint committee designated by the minority leader of the same house of the legislature as the chairperson and the chairperson of the senate committee on ways and means in even-numbered years and the chairperson of the house of representatives committee on appropriations in odd-numbered years. If a member is designated to serve on the board by the chairperson or ~~vice-chairperson~~ *vice chairperson* of the joint committee, the designated member shall serve in lieu of the designating officer on a temporary or permanent basis as specified by the designating officer. The attorney general shall be the chairperson of the board. The secretary of state shall serve as the secretary to the board. The state rules and regulations board shall determine whether a rule and regulation should be adopted as a temporary rule and regulation~~, shall determine the rules and regulations to be published in the Kansas administrative regulations and in the annual supplement to such regulations as provided for in this act~~ and shall perform such other duties as may be required by this act.

Sec. 5. K.S.A. 77-429 is hereby amended to read as follows: 77-429. (a) Before ~~the~~ *any* Kansas administrative ~~regulations or the annual~~

~~supplement thereto shall be~~ *regulation is* published by the secretary of state, ~~they~~ *such regulation* shall be examined and compared by the attorney general and the secretary of state, and if ~~they contain all rules and regulations~~ approved for publication ~~by the board~~, and otherwise comply with the terms of this act, ~~they~~ *the secretary* shall so certify ~~and~~. After such authentication ~~they~~, *such regulation* shall be deemed and held to be "Kansas administrative regulations" and evidence in all courts having jurisdiction in the state~~; and~~. Such authentication shall accompany each electronic or printed copy of Kansas administrative regulations ~~and annual supplement thereto~~.

(b) (1) The secretary of state shall ~~prepare~~ *maintain* a searchable database containing all of the *current* Kansas administrative regulations~~, including any supplements, published pursuant to this section by July 1, 2012, if practicable~~. The database shall be constructed in such a manner that any person accessing or using such database shall be able to search for any rule and regulation based upon the number or subject matter of the rule and regulation or by keyword search. The initial search shall return a list of all rules and regulations ~~which~~ *that* contain the initial search term.

(2) Using any rule and regulation containing the initial search term as an entry point into the database, the database shall permit the person using such database to:

(A) View all occurrences of the search term in the rule and regulation retrieved; and

(B) using the initially retrieved rule and regulation as an entry point into the database's hierarchy, navigate to each rule and regulation ~~which~~ *that* follows or precedes the initial rule and regulation.

Sec. 6. K.S.A. 2023 Supp. 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 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 *as provided for* 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 the per volume and complete~~ *may* set prices of the Kansas administrative regulations sold under this section to recover the costs of publishing, *maintaining* and storing such volumes *and databases*, whether in printed or electronic form. The secretary of state ~~shall~~ *may* revise such prices from time to time for the purposes of covering and recovering such costs.

Sec. 7. K.S.A. 77-435 is hereby amended to read as follows: 77-435. In publishing the material in the Kansas administrative regulations ~~and latest supplements thereto~~, the secretary of state shall not alter the sense, meaning or effect of any rule and regulation but may correct manifest orthographical, clerical or typographical errors and ~~may~~ edit the rules and regulations in the following manner:

(a) By changing descriptive- subject-word headings of sections, subsections or subparts of a rule and regulation in order to briefly and clearly indicate the subject matter of such sections~~.~~*;*

(b) where a pronoun of only masculine or only feminine gender appears a pronoun of the opposite gender may be added, or language may be changed for the same purpose, so long as the opening limitation of this section is not violated~~.~~*;*

(c) by striking the word "that" wherever it appears as the first word of any section in the Kansas administrative regulations or the latest supplement thereto~~.~~*; and*

(d) by correcting doublets.

The secretary of state may submit to the state rules and regulations board, for the board's approval, any proposed changes made pursuant to the provisions of this section. No change made pursuant to the provisions of this section shall effect any change in the substantive meaning of the rule and regulation section, and any error made by the secretary of state in editing the rules and regulations as authorized by this section shall be construed as a clerical error only.

Sec. 8. K.S.A. 45-315, 77-165, 77-423, 77-424, 77-428, 77-429 and 77-435 and K.S.A. 2023 Supp. 77-138, 77-430, 77-430a and 77-431 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, 2024.

CHAPTER 44

HOUSE BILL No. 2634

AN ACT concerning water; relating to groundwater management districts; providing an additional corrective control provision for the chief engineer to consider when issuing orders of designations for local enhanced management areas and intensive groundwater use control areas; amending K.S.A. 82a-1038 and 82a-1041 and repealing the existing sections.

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

Section 1. K.S.A. 82a-1038 is hereby amended to read as follows: 82a-1038. (a) In any case where the chief engineer finds that any one or more of the circumstances set forth in K.S.A. 82a-1036, and amendments thereto, exist and that the public interest requires that any one or more corrective controls be adopted, the chief engineer shall designate, by order, the area in question, or any part thereof, as an intensive groundwater use control area.

(b) The order of the chief engineer shall define specifically the boundaries of the intensive groundwater use control area and shall indicate the circumstances upon which the findings of the chief engineer are made. The order of the chief engineer may include any one or more of the following corrective control provisions:

(1) A provision closing the intensive groundwater use control area to any further appropriation of groundwater in which event the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;

(2) a provision determining the permissible total withdrawal of groundwater in the intensive groundwater use control area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;

(3) a provision reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the intensive groundwater use control area;

(4) a provision requiring and specifying a system of rotation of groundwater use in the intensive groundwater use control area;

(5) a provision allowing flexibility in the use of water rights, including, but not limited to, multi-year allocations and use in excess of a water right's annual authorized quantity in any given year so long as the overall use of water is reduced during the term of the intensive groundwater use control area management plan; and

~~(5)~~*(6)* any one or more other provisions making such additional requirements as are necessary to protect the public interest.

The chief engineer is hereby authorized to delegate the enforcement of any corrective control provisions ordered for an intensive groundwater

use control area to *any* groundwater management district ~~number 4~~ or to any city, if such district or city is located within or partially within the boundaries of such area.

(c) Except as provided by subsection (d), the order of designation of an intensive groundwater use control area shall be in full force and effect from the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal from an order entered on review of the chief engineer's order pursuant to K.S.A. 82a-1901, and amendments thereto, in accordance with the provisions of the Kansas judicial review act. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county within which such designated control area lies.

(d) If the holder of a groundwater right within the area designated as an intensive groundwater use control area applies for review of the order of designation pursuant to K.S.A. 82a-1901, and amendments thereto, the provisions of the order with respect to the inclusion of the holder's right within the area may be stayed in accordance with the Kansas administrative procedure act.

Sec. 2. K.S.A. 82a-1041 is hereby amended to read as follows: 82a-1041. (a) Whenever a groundwater management district recommends the approval of a local enhanced management plan within the district to address any of the conditions set forth in K.S.A. 82a-1036(a) through (d), and amendments thereto, the chief engineer shall review the local enhanced management plan submitted by the groundwater management district. The chief engineer's review shall be limited to whether the plan:

(1) Proposes clear geographic boundaries;

(2) pertains to an area wholly within the groundwater management district;

(3) proposes goals and corrective control provisions as provided in subsection (f) adequate to meet the stated goals;

(4) gives due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures;

(5) includes a compliance monitoring and enforcement element; and

(6) is consistent with state law.

If, based on such review, the chief engineer finds that the local enhanced management plan is acceptable for consideration, the chief engineer shall initiate, as soon as practicable thereafter, proceedings to designate a local enhanced management area.

(b) In any case where proceedings to designate a local enhanced management area are initiated, the chief engineer shall conduct an initial public hearing on the question of designating such an area as a local enhanced

management area according to the local enhanced management plan. The initial public hearing shall resolve the following findings of fact *whether*:

(1) ~~Whether~~ One or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;

(2) ~~whether~~ the public interest of K.S.A. 82a-1020, and amendments thereto, requires that one or more corrective control provisions be adopted; and

(3) ~~whether~~ the geographic boundaries are reasonable.

The chief engineer shall conduct a subsequent hearing or hearings only if the initial public hearing is favorable on all three issues of fact and the expansion of geographic boundaries is not recommended. At least 30 days prior to the date set for any hearing, written notice of such hearing shall be given to every person holding a water right of record within the area in question and by one publication in any newspaper of general circulation within the area in question. The notice shall state the question and shall denote the time and place of the hearing. At every such hearing, documentary and oral evidence shall be taken and a complete record of the same shall be kept.

(c) The subject matter of the hearing or hearings set forth in subsection (b) shall be limited to the local enhanced management plan that the chief engineer previously reviewed pursuant to subsection (a) and set for hearing.

(d) Within 120 days of the conclusion of the final public hearing set forth in subsections (b) and (c), the chief engineer shall issue an order of decision:

(1) Accepting the local enhanced management plan as sufficient to address any of the conditions set forth in K.S.A. 82a-1036(a) through (d), and amendments thereto;

(2) rejecting the local enhanced management plan as insufficient to address any of the conditions set forth in K.S.A. 82a-1036(a) through (d), and amendments thereto;

(3) returning the local enhanced management plan to the groundwater management district, giving reasons for the return and providing the district with the opportunity to resubmit a revised plan for public hearing within 90 days of the return of the deficient plan; or

(4) returning the local enhanced management plan to the groundwater management district and proposing modifications to the plan, based on testimony at the hearing or hearings, that will improve the administration of the plan, but will not impose reductions in groundwater withdrawals that exceed those contained in the plan. If the groundwater management district approves of the modifications proposed by the chief engineer, the district shall notify the chief engineer within 90 days of receipt of return of the plan. Upon receipt of the groundwater management district's ap-

proval of the modifications, the chief engineer shall accept the modified local management plan. If the groundwater management district does not approve of the modifications proposed by the chief engineer, the local management plan shall not be accepted.

(e) In any case where the chief engineer issues an order of decision accepting the local enhanced management plan pursuant to subsection (d), the chief engineer, within a reasonable time, shall issue an order of designation that designates the area in question as a local enhanced management area.

(f) The order of designation shall define the boundaries of the local enhanced management area and shall indicate the circumstances upon which the findings of the chief engineer are made. The order of designation may include any of the following corrective control provisions set forth in the local enhanced management plan:

(1) Closing the local enhanced management area to any further appropriation of groundwater. In which event, the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area;

(2) determining the permissible total withdrawal of groundwater in the local enhanced management area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights;

(3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the local enhanced management area;

(4) requiring and specifying a system of rotation of groundwater use in the local enhanced management area; ~~or~~

(5) allowing flexibility in the use of water rights, including, but not limited to, multi-year allocations and use in excess of a water right's annual authorized quantity in any given year so long as the overall use of water is reduced during the term of the local enhanced management plan; or

~~(5)~~*(6)* any other provisions making such additional requirements as are necessary to protect the public interest.

The chief engineer is hereby authorized to delegate the enforcement of any corrective control provisions ordered for a local enhanced management area to the groundwater management district in which that area is located, upon written request by the district.

(g) The order of designation shall follow, insofar as may be reasonably done, the geographical boundaries recommended by the local enhanced management plan.

(h) Except as provided in subsection (f), the order of designation of a local enhanced management area shall be in full force and effect from

the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal from an order entered on review of the chief engineer's order pursuant to K.S.A. 82a-1901, and amendments thereto, and in accordance with the provisions of the Kansas judicial review act. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order and shall file a copy of the same with the register of deeds of any county within which any part of the local enhanced management area lies.

(i) If the holder of a groundwater right within the local enhanced management area applies for review of the order of designation pursuant to K.S.A. 82a-1901, and amendments thereto, the provisions of the order with respect to the inclusion of the holder's water right within the area may be stayed in accordance with the Kansas administrative procedure act.

(j) Unless otherwise specified in the proposed enhanced management plan and included in the order of designation, a public hearing to review the designation of a local enhanced management area shall be conducted by the chief engineer within seven years after the order of designation is final. A subsequent review of the designation shall occur within 10 years after the previous public review hearing or more frequently as determined by the chief engineer. Upon the request of a petition signed by at least 10% of the affected water users in a local enhanced management area, a public review hearing to review the designation shall be conducted by the chief engineer. This requested public review hearing shall not be conducted more frequently than every four years.

(k) The chief engineer shall adopt rules and regulations to effectuate and administer the provisions of this section.

(l) The provisions of this section shall be *a* part of and supplemental to ~~the provisions of K.S.A. 82a-1020 through K.S.A. 82a-1040~~ *article 10 of chapter 82a of the Kansas Statutes Annotated*, and amendments thereto.

Sec. 3. K.S.A. 82a-1038 and 82a-1041 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, 2024.

CHAPTER 45

HOUSE BILL No. 2660

AN ACT concerning business entities; authorizing a change of registered office address by a current occupant under the business entity standard treatment act; changing the information required in an amendment to the articles of incorporation for a cooperative; relating to filings with the secretary of state; modifying requirements for business entity information reports; eliminating references to a certificate of fact; modifying filing requirements for registration of foreign covered entities; amending K.S.A. 17-2036, 17-2718, 17-4615, 17-4634, 17-4677, 17-7002, 17-7503, 17-7504, 17-7505, 17-7506, 17-76,136, 17-76,139, 17-7903 and 17-7931 and K.S.A. 2023 Supp. 56-1a605, 56-1a606, 56-1a607, 56a-1001, 56a-1201 and 56a-1202 and repealing the existing sections.

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

New Section 1. (a) If the address for the registered office of any covered entity is a residence address and the registered agent no longer resides at the residence address, the current occupant of the residence address may have the address for the registered office removed from public record pursuant to this section.

(b) (1) To request removal of the residence address from the public record, the current occupant shall attest the following on a form prescribed by the secretary of state:

(A) The current occupant's name;

(B) the address for the residence that is listed as the address for the registered office;

(C) affirmation that the registered office address is a residence address;

(D) affirmation that the person filing the request is the current occupant of the residence address; and

(E) affirmation that the person or entity listing the residence address as the registered office address is no longer associated with the residence address.

(2) The submitted form shall be confidential and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this paragraph shall expire on July 1, 2029, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

(c) Upon receiving a submitted form, the secretary of state shall:

(1) Attempt to contact the covered entity and the resident agent to request an address change pursuant to K.S.A. 17-7927, and amendments thereto; and

(2) remove the residence address from public record as the address for a registered office.

(d) If the covered entity receives notice from the secretary of state pursuant to subsection (c), the covered entity shall designate and certify

to the secretary of state the name and address of its resident agent pursuant to K.S.A. 17-7926, and amendments thereto.

(e) This section shall be a part of and supplemental to the business entity standard treatment act.

Sec. 2. K.S.A. 17-2036 is hereby amended to read as follows: 17-2036. (a) Every business trust shall make a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences such tax period~~.

(b) The 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~~ *April 15*.

(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, that have been adopted and have not been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed by law for each such amendment;

(2) a verified list of the names and postal addresses of its trustees ~~as of the end of each of such business trust's tax periods included in the report~~; and

(3) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(d) (1) At the time of filing the business entity information report, the business trust shall pay to the secretary of state a fee in an amount equal to $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 business entity information report and pay the required fee within 90 days from the date when such report and fee are due~~, or, in the case of a report filing and fee received by mail, postmarked within 90 days from the date when such report and fee are due,~~ shall work a forfeiture of

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 that fails to file its business entity information report or pay the required fee within 90 days after such report and fee are due, shall be applicable to such business trust.

~~(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 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.~~

~~(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. 3. K.S.A. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state a written business entity information report, 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~~ *day the report is filed with* 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~~ *April 15*.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name and postal address for each officer, director and shareholder 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 when any shares of the corporation were no longer owned by a qualified person; and

(3) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(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 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. The report shall be subscribed by the individual as true, under penalty of perjury. Upon request by the regulatory board that licenses the shareholders described in the report, a copy of the report shall be forwarded to the regulatory board.

(e) At the time of filing its business entity information report, each professional corporation shall pay the fee prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 4. K.S.A. 17-4615 is hereby amended to read as follows: 17-4615. A cooperative may amend its articles of incorporation in any manner not inconsistent with this act by complying with the following requirements:

(a) The proposed amendment shall be presented to a meeting of the members, the notice of which shall set forth or have attached the proposed amendment.

(b) If the proposed amendment, with any changes, is approved by the affirmative vote of not less than $^{2}/_{3}$ of those members voting at such meeting, articles of amendment shall be executed on behalf of the cooperative by its president or ~~vice-president~~ *vice president* and attested by its secretary.

(c) The articles of amendment shall recite that they are executed pursuant to this act and shall state:

(1) The name of the cooperative; *and*

(2) ~~the address of its principal office; and~~

~~(3)~~ the amendment to its articles of incorporation.

(d) The president or ~~vice-president~~ *vice president* executing such articles of amendment shall make and annex thereto an affidavit stating that the provisions of this section in respect of the amendment set forth in such articles were duly complied with.

Sec. 5. K.S.A. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make a written business entity information report 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~~ *day the report*

is filed with 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 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 fourth month following the close of the tax year of the electric cooperative~~ *April 15*.

(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, including the building and suite number, street name or rural route number with box number, city, state and zip code; *and*

(3) the names and postal addresses of the president, secretary, treasurer*, or the equivalent of such officers,* and all ~~directors~~ *trustees*~~;~~

~~(4) the number of memberships issued; and~~

~~(5) the change or changes, if any, in the particulars made since the last business entity information report~~.

(d) Such reports shall be signed by the president, vice president or secretary of the corporation*, or the equivalent of such officer,* under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, each such corporation shall pay a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

Sec. 6. 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 a written business entity information report 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~~ *day the report is filed with* 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 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~~ *April 15*.

(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, including the building and suite number, street name or rural route number with box number, city, state and zip code; *and*

(3) the names and postal addresses of the president, secretary, treasurer, *or the equivalent of such officers,* 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 business entity information report~~.

(d) The report shall be dated, signed by the president, vice president or secretary of the cooperative, *or the equivalent of such officer,* under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the cooperative shall pay a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

Sec. 7. K.S.A. 17-7002 is hereby amended to read as follows: 17-7002. (a) As used in this section:

(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. 17-7931, and amendments thereto.

(b) Except as provided further, any corporation whose articles of incorporation or authority to engage in business has become forfeited or void pursuant to this code or whose articles of incorporation or authority to engage in business has been revived, but, through failure to comply strictly with the provisions of this code, the validity of whose revival has been brought into question, *may* at any time procure a revival 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 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. This section shall not be applicable to a corporation whose articles of incorporation have been revoked or forfeited pursuant to K.S.A. 17-6812, and amendments thereto.

(c) The revival of the articles of incorporation or authority to engage in business may be procured as authorized by the board of directors or members of the governing body of the corporation in accordance with subsection (h) and by executing and filing a certificate of revival in accordance with K.S.A. 17-7908 through 17-7910, and amendments thereto.

(d) The certificate required by subsection (c) shall state:

(1) The date of filing of the corporation's ~~original~~ articles of incorporation~~, the name under which the corporation was originally incorporated,~~ *and* the name of the corporation at the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code and the new name under which the corporation is to be revived to the extent required by subsection (f);

(2) the postal address of the corporation's registered office in this state, which shall be stated in accordance with K.S.A. 17-7924(c), and amendments thereto, and the name of its resident agent at such address;

(3) that the corporation desiring to be revived and so reviving its corporate existence was duly organized under the laws of the state of its original incorporation;

(4) the date when the articles of incorporation or the authority to engage in business became forfeited or void pursuant to this code, or that the validity of any revival has been brought into question; and

(5) that the certificate of revival is filed by authority of the board of directors or members of the governing body of the corporation in accordance with subsection (h).

(e) Upon the filing of the certificate in accordance with K.S.A. 17-7908 through 17-7910, and amendments thereto, the corporation shall be revived 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. Such revival 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 directors or members of its governing body, officers, agents and stockholders or members during the time when its articles of incorporation or authority to engage in business was forfeited or void pursuant to this code, 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 that 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 and that were not disposed of prior to the time of its revival and all real and personal property, rights and credits acquired by the corporation after its articles of incorporation became forfeited or void pursuant to this code shall be vested in the corporation, after its revival, as if its articles

of incorporation had at all times remained in full force and effect. The corporation after its revival 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 directors or members of its governing body, officers, agents and stockholders or members prior to its revival, 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, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be revived or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be revived, or any foreign corporation registered in accordance with K.S.A. 17-7931, and amendments thereto, shall have adopted the same name as the corporation sought to be revived, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be revived, then in such case the corporation to be revived shall not be revived under the same name that it bore when its articles of incorporation became forfeited or void pursuant to this code, but shall be revived under some other name as set forth in the certificate to be filed pursuant to subsection (c).

(g) Any corporation that revives its articles of incorporation or authority to engage in business under this code shall file all 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 business entity information reports for the most recent reporting period and pay to the secretary of state an amount equal to all fees due.

(h) For purposes of this section the board of directors or governing body of the corporation shall be comprised of the persons, who, but for the articles of incorporation having become forfeited or void pursuant to this code, would be the duly elected or appointed directors or members of the governing body of the corporation. The requirement for authorization by the board of directors under subsection (c) shall be satisfied if a majority of the directors or members of the governing body then in office, even though less than a quorum, or the sole director or member of the governing body then in office, authorizes the revival of the articles of incorporation of the corporation and the filing of the certificate required by subsection (c). In any case where there shall be no directors of the corporation available for the purposes described in this subsection, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board so elected may then authorize the revival of the articles of incorporation of the corporation and the filing of the certificate required by subsection (c). A special meeting of the stock-

holders for the purpose of electing directors may be called by any officer or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto. For purposes of this section, the bylaws shall be the bylaws of the corporation that, but for the articles of incorporation having become forfeited or void pursuant to this code, would be the duly adopted bylaws of the corporation.

(i) After a revival 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 during which the articles of incorporation of the corporation was forfeited or void pursuant to this code 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 revive 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 revival of the articles of incorporation of the corporation or its authority to engage in business that 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 revival of the articles of incorporation of the corporation or its authority to engage in business that are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the revival 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 revival of the articles of incorporation of a corporation having capital stock, except that subsection (i) shall not apply to nonstock corporations.

Sec. 8. K.S.A. 17-7503 is hereby amended to read as follows: 17-7503. (a) Every domestic corporation organized for profit shall make a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences such tax period~~.

(b) The report shall be made on forms prescribed by the secretary of state 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~~ *April 15*.

(c) The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code;

(3) the name and postal address for the president, secretary, treasurer or equivalent of such officers and members of the board of directors;

(4) the nature and kind of business in which the corporation is engaged; 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.

(d) Every corporation subject to the provisions of this section 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.

(e) The report shall be executed in accordance with the provisions of K.S.A. 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. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state a fee in an amount equal to $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. K.S.A. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences such tax period~~.

(b) The report shall be made on forms prescribed by the secretary of state 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~~ *June 15*.

(c) The report shall contain the following information:

(1) The name of the corporation;

(2) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code;

(3) the name and postal address for the president, secretary and treasurer, or equivalent of such officers, and the members of the governing body; and

(4) 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.

(d) Every corporation subject to the provisions of this section 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.

(e) The report shall be executed in accordance with the provisions of K.S.A. 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. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report, each nonprofit corporation shall pay a fee in an amount equal to $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. K.S.A. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make a written business entity information report 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~~ *day the report is filed with* 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 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~~ *April 15*.

(c) The report shall contain the following 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, including the building and suite number, street name or rural route number with box number, city, state and zip code;

(3) the name and postal address for the president, secretary, treasurer, or equivalent of such officers, and members of the board of directors;

(4) the nature and kind of business in which the company is engaged; 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.

(d) Every corporation subject to the provisions of this section 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.

(e) The report shall be executed in accordance with the provisions of K.S.A. 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. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report, each such foreign corporation shall pay to the secretary of state a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

Sec. 11. K.S.A. 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, revocation of dissolution, restoration 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) certificate of merger or consolidation or 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) extension of a business entity information report; ~~and~~

(18) certificate of validation*; and*

(19) certificate of reinstatement.

(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; postal 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 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. 12. K.S.A. 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 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, regardless of whether the secretary of state supplies the copy;

(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; *and*

(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 postal address of its registered office; name and postal address of the resident agent; the state of the limited liability company's formation; the date~~

~~of filing of its articles of organization or business entity information report; and date of expiration; and~~

~~(5)~~ a fee of $20 for a copy of an instrument on file or prepared by the secretary of state's office, whether or not the copy is certified.

(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. 13. K.S.A. 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 a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences the different tax period~~.

(b) The 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, except 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 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~~ *April 15*.

(c) The report shall be made on a form prescribed by the secretary of state 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;

(2) a list of the members owning at least 5% of the capital of the limited liability company or series, as applicable, with the postal address of each; and

(3) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(d) (1) Every foreign limited liability company shall make a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences the different tax period~~.

(2) The 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~~ *April 15*.

(3) The report shall be made on a form prescribed by the secretary of state and shall contain the name of the limited liability company.

(e) The 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 report by a person who is authorized by the Kansas revised limited liability company act to execute such report, upon filing such 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 in such report are true.

(f) At the time of filing the business entity information report, each limited liability company or series shall pay to the secretary of state a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file business entity in-

formation report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file business entity information report or pay the required 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 that fails to file its business entity information report or pay the fee within 90 days of the time prescribed in this section for filing and paying the ~~same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same~~ *fee*. 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 business entity information report or to pay the required 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. 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. 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.

Sec. 14. K.S.A. 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. 17-72a02, and amendments thereto;

(5) certificate of validation as set forth in K.S.A. 17-6428, and amendments thereto;

(6) foreign for-profit application for authority as set forth in K.S.A. 17-7931, and amendments thereto;

(7) for-profit business entity information report as set forth in K.S.A. 17-7503 and 17-7505, and amendments thereto;

(8) professional association 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. 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. 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~~ *revival* 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. 17-7936, and amendments thereto; and

(24) certificate of ~~revocation of dissolution~~ *restoration* 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. 17-7931, and amendments thereto;

(3) not-for-profit 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. 17-7912, and amendments thereto;

(6) not-for-profit change of registered office or resident agent as set forth in K.S.A. 17-7926, 17-7927, 17-7928 and 17-7929, and amendments thereto;

(7) not-for-profit certificate of ~~reinstatement~~ *revival* 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*; and*

(9) certificate of restoration as set forth in K.S.A. 17-7001, and amendments thereto.

Sec. 15. K.S.A. 17-7931 is hereby amended to read as follows: 17-7931. Before doing business in the state of Kansas, a foreign covered entity shall register with the secretary of state. In order to register, a foreign covered entity shall submit to the secretary of state, together with payment of a fee if authorized by law, as provided by K.S.A. 17-7910, and amendments thereto, an original copy executed by a governor, of an application for registration as a foreign covered entity~~,~~ setting forth:

(a) The name of the foreign covered entity;

(b) the jurisdiction where organized;

(c) the date of its organization;

(d) a statement ~~issued within 90 days of the date of application by the proper officer of the jurisdiction where such foreign entity is organized, or by a third-party agent authorized by such proper officer, that~~ *made under penalty of perjury that, as of the day of the filing,* the foreign covered entity exists in good standing under the laws of the jurisdiction of its organization;

(e) the nature of the business or purposes to be conducted or promoted in the state of Kansas, including whether the covered entity operates for-profit or not-for-profit;

(f) the address of the registered office and the name and address of the resident agent for service of process required to be maintained by this act;

(g) an irrevocable written consent of the foreign covered entity that actions may be commenced against it in the proper court of any county where there is proper venue by the service of process on the secretary of state as provided for in K.S.A. 60-304, and amendments thereto, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the governors of the foreign covered entity; and

(h) the date on which the foreign covered entity first did, or intends to do, business in the state of Kansas.

Sec. 16. K.S.A. 2023 Supp. 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, regardless of whether the secretary of state supplies the copies;

(3) for each certificate of good standing ~~and certificate of fact~~ issued by the secretary of state, a fee of $7.50; *and*

(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 postal address of its registered office; name and postal address of the resident agent; the state of the limited partnership's formation; the date of filing of its certificate of limited partnership or business entity information report; and date of expiration; and~~

~~(5)~~ a fee of $20 for a copy of an instrument on file or prepared by the secretary of state's office, whether or not the copy is certified.

(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. 17. K.S.A. 2023 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 a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences the different tax period~~.

(b) The 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~~ *April 15*.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information:

(1) The name of the limited partnership;

(2) a list of the partners owning at least 5% of the capital of the partnership, with the postal address of each; and

(3) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(d) Every limited partnership subject to the provisions of this section that is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and 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 paragraph (1) was acquired after July 1, 1981.

(e) The 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 its business entity information report, the limited partnership shall pay to the secretary of state a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required 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 a business entity information report or pay the required fee, shall be applicable to the certificate of partnership of any limited partnership that fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the ~~same or, in the case of 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~~ *fee*. Whenever the certificate of partnership of a limited partnership is forfeited for failure to file a business entity information report or to pay the required 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 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. 18. K.S.A. 2023 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited partnership shall make a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences the different tax period~~.

(b) The 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~~ *April 15*.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain:

(1) The name of the limited partnership; and

(2) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(d) Every foreign limited partnership subject to the provisions of this section that is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and 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 paragraph (1) was acquired after July 1, 1981.

(e) The 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 its business entity information report, the foreign limited partnership shall pay to the secretary of state a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required 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 a business entity information report or pay the required fee, shall be applicable to the authority of any foreign limited partnership that fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the ~~same or, in the case of 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~~ *fee*. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file a business entity information report or to pay the required 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 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. 19. K.S.A. 2023 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 *prescribed* statement of qualification *with the secretary of state*. 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. 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 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. 20. K.S.A. 2023 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 a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences the different tax period~~.

(b) The 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~~ *April 15*.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information:

(1) The name of the limited liability partnership;

(2) a list of the partners owning at least 5% of the capital of the partnership, with the postal address for each; and

(3) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(d) The 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 its business entity information report, the limited liability partnership shall pay to the secretary of state a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

(f) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, shall be applicable to the statement of qualification of any limited liability partnership that fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the ~~same or, in the case of 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~~ *fee*. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file a business entity information report or to pay the required 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 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. 21. K.S.A. 2023 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make a written business entity information report 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~~ *day the report is filed with* the secretary of state ~~prior to December 31 of the year it commences the different tax period~~.

(b) The 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~~ *April 15*.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain:

(1) The name of the foreign limited liability partnership; and

(2) the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.

(d) The 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 its business entity information report, the foreign limited liability partnership shall pay to the secretary of state a fee in an amount equal to $80, plus the amount specified in rules and regulations of the secretary ~~multiplied by the number of tax periods included in the report~~.

(f) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership that fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the ~~same or, in the case of 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~~ *fee*. Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file a business entity information report or to pay the required 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 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. 22. K.S.A. 17-2036, 17-2718, 17-4615, 17-4634, 17-4677, 17-7002, 17-7503, 17-7504, 17-7505, 17-7506, 17-76,136, 17-76,139, 17-7903 and 17-7931 and K.S.A. 2023 Supp. 56-1a605, 56-1a606, 56-1a607, 56a-1001, 56a-1201 and 56a-1202 are hereby repealed.

Sec. 23. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 2024.

CHAPTER 46

HOUSE BILL No. 2545

AN ACT concerning the self-service storage act; providing for sale of property not retrieved by an occupant after notice by an operator; allowing electronic signatures and electronic delivery for rental agreements upon consent by an occupant; defining "property that has no commercial value"; providing for the effectiveness of rental agreements when such agreements are not signed or delivered by an owner or by an occupant; specifying custody and control of abandoned or towed property; amending K.S.A. 58-814 and 58-818 and K.S.A. 2023 Supp. 58-816 and repealing the existing sections.

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

New Section 1. (a) If the occupant does not retrieve such occupant's personal property in the leased space for more than 45 days after the date of a notice of termination or non-renewal by the operator, the operator may sell the property as provided in subsection (b) without liability to any party. The notice of termination or non-renewal shall be prepared and delivered by the operator pursuant to the terms of the rental agreement to be effective.

(b) Prior to the sale of the personal property, the operator shall provide an additional notice to the occupant by first-class mail to the occupant's last known address stating that the operator may sell the personal property remaining in the leased space after a specified date unless the occupant removes such personal property. Such specified date shall be at least 45 days after the date of the notice of termination or non-renewal and at least 15 days after the date of the additional notice. If a notice of termination or non-renewal by the operator includes, in bold type, a statement that the operator may sell the personal property remaining in the leased space unless the occupant removes such property before a specified date at least 45 days after the date of the notice of termination or non-renewal, the operator shall not be required to provide such additional notice. If the operator has given written notice to the occupant by first-class mail or in the operator's notice of termination or non-renewal as provided by this subsection and the occupant has not removed the personal property by the specified date, the operator may sell the property. The operator may dispose of personal property that has no commercial value.

(c) Any proceeds remaining after the operator deducts rent, labor or other charges, and expenses reasonably incurred in the sale of the personal property shall be considered abandoned property to be reported and paid to the state treasurer in accordance with the uniform unclaimed property act.

(d) This section shall be a part of and supplemental to the self-service storage act.

Sec. 2. K.S.A. 58-814 is hereby amended to read as follows: 58-814. As used in the self-service storage act ~~the following words shall mean the following~~:

(a) ~~"Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis~~*"Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.*

(b) ~~"Rental agreement" means any written statement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility~~*"Electronic signature" means an electronic symbol or process that is attached to, or logically associated with, a rental agreement and executed or adopted by a person with an intent to accept, execute or amend the rental agreement.*

(c) ~~"Leased space" means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement~~*"Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.*

(d) ~~"Occupant" means a person, a sublessee, successor or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement~~*"Late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A "late fee" is not interest on a debt, nor is a late fee a reasonable expense that the operator may incur in the course of collecting unpaid rent in enforcing the operator's lien right pursuant to K.S.A. 58-814, et seq., and amendments thereto, or enforcing any other remedy provided by statute or contract.*

(e) ~~"Operator" means the owner, operator, lessor or sublessor of a self-service storage facility, an agent or any other person authorized to manage the facility, except that "operator" does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored~~*"Leased space" means the individual storage space at the self-service storage facility that is rented to an occupant pursuant to a rental agreement.*

(f) ~~"Personal property" means movable property, not affixed to land, and "personal property" includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items and furnishings~~*"Occupant" means a person, a sublessee, successor or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.*

(g) ~~"Default" means the failure to perform on time any obligation or duty set forth in the rental agreement~~*"Operator" means the owner, operator, lessor or sublessor of a self-service storage facility, an agent or any other person authorized to manage the facility, except that "opera-*

tor" does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

(h) ~~"Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address~~*"Personal property" means movable property, not affixed to land, and "personal property" includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items and furnishings.*

(i) ~~"Late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a late fee a reasonable expense that the operator may incur in the course of collecting unpaid rent in enforcing the operator's lien right pursuant to K.S.A. 58-814, et seq., and amendments thereto, or enforcing any other remedy provided by statute or contract~~*"Property that has no commercial value" means property offered for sale in a commercially reasonable sale that receives no bid or offer.*

(j) "Rental agreement" means any written or electronic statement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility.

(k) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis.

Sec. 3. K.S.A. 2023 Supp. 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;

(3) that any proceeds from the sale of the property 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~~ *self-service 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~~ *self-service 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.

(e) (1) Notwithstanding the failure to sign or deliver a rental agreement by the operator or occupant, the rental agreement shall be deemed to be effective if:

(A) The operator does not sign and deliver to the occupant a rental agreement that has been signed and delivered by the occupant to the operator and the operator accepts a payment of rent by the occupant for the leased space as provided in the rental agreement; or

(B) except as provided in subsection (f), the occupant does not sign and deliver to the operator a rental agreement that has been delivered to the occupant by the operator and the occupant takes or continues possession of the leased space or makes a payment of rent to the operator for the leased space as provided in the rental agreement.

(2) For rental agreements initially entered into on or after July 1, 2024, a rental agreement that the occupant does not sign and deliver to the operator shall be effective only if the rental agreement contains a statement, in bold type, advising the occupant of the provisions of paragraph (1)(B).

(f) If an occupant has affirmatively agreed to electronic delivery in writing, in either paper or electronic form, a rental agreement may be delivered electronically and may be accepted or executed by means of a manual, facsimile or electronic signature. The provisions of subsection (e)(1)(B) shall apply to a rental agreement delivered electronically only if an occupant has affirmatively agreed to electronic delivery in writing as provided by this subsection.

Sec. 4. K.S.A. 58-818 is hereby amended to read as follows: 58-818. Unless the rental agreement specifically provides otherwise and until a lien sale*, the towing of personal property or a sale or disposal of personal property not retrieved by the occupant* under the self-service storage act, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remains vested in the occupant.

Sec. 5. K.S.A. 58-814 and 58-818 and K.S.A. 2023 Supp. 58-816 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, 2024.

CHAPTER 47

HOUSE BILL No. 2536
(Amended by Chapter 100)

AN ACT concerning children and minors; relating to the revised Kansas code for care of children; establishing SOUL family legal permanency as a permanency option for children in need of care who are 16 years of age or older; allowing courts to establish SOUL family legal permanency; defining SOUL family legal permanency; reconciling definition of behavioral health crisis in the revised Kansas code for care of children; amending K.S.A. 38-2234, 38-2263, 38-2264, 38-2266 and 38-2268 and K.S.A. 2023 Supp. 38-2202, 38-2203 and 38-2255 and repealing the existing sections; also repealing K.S.A. 2023 Supp. 38-2202a.

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

New Section 1. (a) SOUL family legal permanency may be appointed with:

(1) Agreement and approval of a child 16 years of age or older;

(2) agreement and consent of the child's parent unless there has been a finding of unfitness or termination of parental rights and parental consent is no longer required; and

(3) approval of the court set forth in a court order.

(b) The court may order SOUL family legal permanency:

(1) After a finding of unfitness pursuant to K.S.A. 38-2269, and amendments thereto;

(2) after termination of parental rights pursuant to K.S.A. 38-2270, and amendments thereto; or

(3) when determined by the court to be in the best interests of a child 16 years of age or older and the requirements of subsection (a) are met.

(c) Prior to submitting SOUL family legal permanency for appointment by the court, the secretary for children and families shall:

(1) Observe the child in the home of the potential SOUL family legal permanency custodian with whom the child will reside and determine the ability and suitability of the potential custodian to care for the child;

(2) determine whether the names of any potential SOUL family legal permanency custodians appear on the Kansas department for children and families child abuse and neglect registry and whether any potential custodians have been convicted of crimes specified in K.S.A. 59-2132(e), and amendments thereto;

(3) consider, to the extent the secretary determines the appointment to be in the best interests of the child, appointing a relative or an individual with whom the child has close emotional ties; and

(4) submit a report to the court containing determinations required by this subsection.

(d) Prior to ordering SOUL family legal permanency, the court shall review and consider:

(1) The report submitted by the secretary pursuant to subsection (c); and

(2) information provided by the secretary related to benefits, including, but not limited to, financial support, medical coverage and educational support, if SOUL family legal permanency is established by the court.

(e) The court shall ensure the child has access to the maximum allowable benefits available under other permanency options pursuant to K.S.A. 38-2264, and amendments thereto.

(f) When appointing SOUL family legal permanency, the court shall consider, to the extent the court finds it is in the child's best interest, appointing a relative or an individual with whom the child has close emotional ties. If the court appoints more than one individual as a SOUL family legal permanency custodian, the child and the individual may be unrelated.

(g) Upon the establishment of SOUL family legal permanency, the secretary's custody of the child shall cease. The court's jurisdiction over the child shall continue unless the court enters an order terminating jurisdiction pursuant to K.S.A. 38-2203, and amendments thereto, and this section.

(h) If there is more than one SOUL family legal permanency custodian, one individual shall be designated as primary custodian by the court with the approval of the child and the individual to serve in such role. If a dispute arises between the child and the SOUL family legal permanency custodian or between custodians, the primary custodian shall consider information provided by the child and other SOUL family legal permanency custodians for possible resolution of a dispute. If a dispute remains unresolved prior to the child reaching 18 years of age, or June 1 of the school year during which the child became 18 years of age if the child is still attending high school, subsequent to the filing of a motion by the child or SOUL family legal permanency custodian, the court may consider such motion and may order alternative dispute resolution. If the court has previously terminated jurisdiction pursuant to K.S.A. 38-2203, and amendments thereto, or this section, the court may reinstate the child's case to consider such motion.

(i) Subject to subsection (j), a SOUL family legal permanency custodian shall stand in loco parentis to the child and exercise all of the rights and responsibilities of a parent, except that such custodian shall not:

(1) Consent to an adoption of the child; or

(2) be subject to court-ordered child support or medical support for the child.

(j) The court, upon motion of parties or interested parties or its own motion, may impose limitations or conditions upon the rights and responsibilities of the SOUL family legal permanency as determined by the court to be in the best interests of the child.

(k) Absent a judicial finding of unfitness or court-ordered limitations pursuant to subsection (i), a SOUL family legal permanency custodian may share parental responsibilities with a parent of the child if the SOUL family legal permanency custodian determines sharing of parental responsibilities is in the best interests of the child. Sharing parental responsibilities does not relieve the SOUL family legal permanency custodian of legal responsibility.

(l) When parental consent is required for the appointment of SOUL family legal permanency, the consent shall be in writing and shall be acknowledged before a judge of a court of record or before an officer authorized by law to take acknowledgments. If the consent is acknowledged before a judge of a court of record, it shall be the duty of the court before that consent is acknowledged to advise the consenting parent of the consequences of the consent, including the following:

(1) Do you understand that your parental rights are not being terminated by the order establishing SOUL family legal permanency and you can be ordered to pay child support and medical support for your child?

(2) Do you understand that to exercise the rights you still have with your child, you must keep the court up to date about how to contact you? This means that the court needs to always have your current address and telephone number.

(3) Do you understand that if you want information about your child's health or education, you will have to keep the information you give the court about where you are up to date because the information about your child will be sent to the last known address the court has?

(4) Do you understand that you may be able to have some contact with your child, but only if the SOUL family legal permanency custodian decides it is in the best interests of the child and if the court allows the contact?

(5) Do you understand that unless the court orders differently, the SOUL family legal permanency custodian has the right to make decisions about day-to-day care of your child?

(m) A parental consent is final when executed, unless the parent whose consent is at issue, prior to issuance of the order appointing a SOUL family legal permanency custodian, proves by clear and convincing evidence that the consent was not freely and voluntarily given. The burden of proving the consent was not freely and voluntarily given shall rest with that parent.

(n) If a parent has consented to appointment of a SOUL family legal permanency based upon a belief that the child's other parent would so consent or be found unfit, and such other parent does not consent, the consent shall be null and void.

(o) If a SOUL family legal permanency custodian is ordered after a judicial finding of parental unfitness without a termination of parental

rights, all parental rights transfer to the SOUL family legal permanency, except for:

(1) The obligation to pay child support and medical support;

(2) the right to inherit from the child; and

(3) the right to consent to adoption of the child.

(p) If SOUL family legal permanency is ordered after termination of parental rights, the parent retains no rights or responsibilities to the child pursuant to the termination by the court.

(q) The court may recognize other individuals in addition to the individuals appointed by the court as the child's SOUL family legal permanency custodian, who shall testify to the court, with request and approval by the child, that they will provide support as requested by and agreed upon with the child and the SOUL family legal permanency custodian. Such other individuals shall have no legal obligations or rights related to the child pursuant to the court's recognition as set out in this subsection.

(r) All SOUL family legal permanency custodians acting in such capacity shall execute sworn documents related to the appointment confirming the custodian's willingness to serve as a SOUL family legal permanency custodian and an order of the court. Such documents shall be filed with the court.

(s) If SOUL family legal permanency custodians are married to each other and, subsequent to the SOUL family legal permanency appointment, are divorced, the marriage is annulled or the court orders separate maintenance, the court shall make custody determinations between the SOUL family legal permanency custodians.

(t) A SOUL family legal permanency custodian shall consider whether the custodian will provide any rights of inheritance to the child and medical power of attorney for the child for whom they were appointed a SOUL family legal permanency custodian and separately execute such agreements.

Sec. 2. K.S.A. 2023 Supp. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) "Abandon" or "abandonment" means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) "Adult correction facility" means any public or private facility, secure or nonsecure, that is used for the lawful custody of accused or convicted adult criminal offenders.

(c) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) "Child in need of care" means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-3421 or 72-3120, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, 74-8810(j), 79-3321(m) or (n), or K.S.A. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution, but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act that if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 21-6301(a)(14), and amendments thereto;

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve; or

(14) has been subjected to an act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 21-6419, and amendments thereto.

(e) "Child abuse medical resource center" means a medical institution affiliated with an accredited children's hospital or a recognized institution of higher education that has an accredited medical school program with

board-certified child abuse pediatricians who provide training, support, mentoring and peer review to CARE providers on CARE exams.

(f) "Child abuse review and evaluation exam" or "CARE exam" means a forensic medical evaluation of a child alleged to be a victim of abuse or neglect conducted by a CARE provider.

(g) "Child abuse review and evaluation network" or "CARE network" means a network of CARE providers, child abuse medical resource centers and any medical provider associated with a child advocacy center that has the ability to conduct a CARE exam that collaborate to improve services provided to a child alleged to be a victim of abuse or neglect.

(h) "Child abuse review and evaluation provider" or "CARE provider" means a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant who performs CARE exams of and provides medical diagnosis and treatment to a child alleged to be a victim of abuse or neglect and who receives:

(1) Kansas-based initial intensive training regarding child maltreatment from the CARE network;

(2) continuous trainings on child maltreatment from the CARE network; and

(3) peer review and new provider mentoring regarding medical evaluations from a child abuse medical resource center.

(i) "Child abuse review and evaluation referral" or "CARE referral" means a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child's need for medical care that may include a CARE exam.

(j) "Citizen review board" is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 38-2207 and 38-2208, and amendments thereto.

(k) "Civil custody case" includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

(l) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

(m) "Custody" whether temporary, protective or legal, means the status created by court order or statute that vests in a custodian, whether

an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(n) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the child's home.

(o) "Educational institution" means all schools at the elementary and secondary levels.

(p) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-6143(a), and amendments thereto.

(q) "Harm" means physical or psychological injury or damage.

(r) "Interested party" means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

(s) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(t) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders that must not be a jail.

(u) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(v) "Kinship care placement" means the placement of a child in the home of an adult with whom the child or the child's parent already has close emotional ties.

(w) "Kinship caregiver" means an adult who the secretary has selected for placement for a child in need of care with whom the child or the child's parent already has close emotional ties.

(x) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(y) "Multidisciplinary team" means a group of persons, appointed by the court under K.S.A. 38-2228, and amendments thereto, that has knowledge of the circumstances of a child in need of care.

(z) "Neglect" means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child's parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall, not for that reason, be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments thereto.

(aa) "Parent" when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

(bb) "Party" means the state, the petitioner, the child, any parent of the child and an Indian child's tribe intervening pursuant to the Indian child welfare act.

(cc) "Permanency goal" means the outcome of the permanency planning process, which may be reintegration, adoption, appointment of a permanent custodian, *establishment of SOUL family legal permanency* or another planned permanent living arrangement.

(dd) "Permanent custodian" means a judicially approved permanent guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

(ee) "Physical, mental or emotional abuse" means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

(ff) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(gg) "Qualified residential treatment program" means a program designated by the secretary for children and families as a qualified residential treatment program pursuant to federal law.

(hh) "Reasonable and prudent parenting standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

(ii) "Relative" means a person related by blood, marriage or adoption.

(jj) "Runaway" means a child who is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian.

(kk) "Secretary" means the secretary for children and families or the secretary's designee.

(ll) "Secure facility" means a facility, other than a staff secure facility or juvenile detention facility, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(mm) "Sexual abuse" means any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

(1) Be photographed, filmed or depicted in pornographic material; or

(2) be subjected to aggravated human trafficking, as defined in K.S.A. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act that would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 21-6419 or 21-6422, and amendments thereto.

(nn) "Shelter facility" means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(oo) *"Support, opportunity, unity, legal relationships family legal permanency" or "SOUL family legal permanency" means the appointment of*

one or more adults, approved by a child who is 16 years of age or older and the subject of a child in need of care proceeding, pursuant to section 1, and amendments thereto.

(pp) "Staff secure facility" means a facility described in K.S.A. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

~~(pp)~~*(qq)* "Transition plan" means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

~~(qq)~~*(rr)* "Youth residential facility" means any home, foster home or structure that provides 24-hour-a-day care for children and that is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(ss) "Behavioral health crisis" means behavioral and conduct issues that impact the safety or health of a child, members of the child's household or family or members of the community, including, but not limited to, non-life threatening mental health and substance abuse concerns.

Sec. 3. K.S.A. 2023 Supp. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding, K.S.A. 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-2242, and amendments thereto; temporary custody hearing, K.S.A. 38-2243, and amendments thereto; adjudication, K.S.A. 38-2247, and amendments thereto; burden of proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A. 38-2255, and amendments thereto; permanency hearings, K.S.A. 38-2264, and amendments thereto; termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments thereto; establishment of permanent custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto; *establishment of SOUL family legal permanency, section 1, and amendments thereto;* the newborn infant pro-

tection act, K.S.A. 38-2282, and amendments thereto; the Representative Gail Finney memorial foster care bill of rights, K.S.A. 2023 Supp. 38-2201a, and amendments thereto; the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 23-37,101 through 23-37,405, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has:

(1) Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21;

(2) been adopted; ~~or~~

(3) *SOUL family legal permanency as ordered by the court pursuant to section 1, and amendments thereto, and such jurisdiction may continue until the child has reached 18 years of age, or until June 1 of the school year during which the child reached 18 years of age if the child is still attending high school; or*

(4) been discharged by the court.

(d) Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease.

~~(d)~~*(e)* When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection ~~(c)~~*(d)*, the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home placement, is still attending high school and has not completed the child's high school education.

~~(e)~~*(f)* When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

~~(f)~~*(g)* A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a civil custody case, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, or a comparable case in another jurisdiction, except as provided by K.S.A. 23-37,101 through 23-37,405, and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 4. K.S.A. 38-2234 is hereby amended to read as follows: 38-2234. (a) *Filing and contents of petition.* (1) A petition filed to commence an action pursuant to this code shall be filed with the clerk of the district court and shall state, if known:

(A) The name, date of birth and residence address of the child;

(B) the name and residence address of the child's parents;

(C) the name and address of the child's nearest known relative if no parent can be found;

(D) the name and residence address of any persons having custody or control of the child; and

(E) plainly and concisely in the language of the statutory definition, the basis for the petition.

(2) The petition shall also state the specific facts that are relied upon to support the allegation referred to in the preceding paragraph including any known dates, times and locations.

(3) The proceedings shall be entitled: "In the Interest of _____."

(4) The petition shall contain a request that the court find the child to be a child in need of care.

(5) The petition shall contain a request that the parent or parents be ordered to pay child support. The request for child support may be omitted with respect to a parent already ordered to pay child support for the child and shall be omitted with respect to one or both parents upon written request of the secretary.

(6) If the petition requests custody of the child to the secretary or a person other than the child's parent, the petition shall specify the efforts known to the petitioner to have been made to maintain the family and prevent the transfer of custody, or it shall specify the facts demonstrating that an emergency exists which threatens the safety to the child.

(7) If the petition requests removal of the child from the child's home, in addition to the information required by K.S.A. 38-2234(a)(6), and amendments thereto, the petition shall specify the facts demonstrating that allowing the child to remain in the home would be contrary to the welfare of the child or that placement is in the best interests of the child and the child is likely to sustain harm if not removed from the home.

(8) The petition shall have an attached copy of the prevention plan, if any, that has been prepared for the child.

(9) The petition shall contain the following statement: "If you do not appear in court the court will be making decisions without your input which could result in:

(A) The permanent or temporary removal of the child from the custody of the parent or present legal guardian;

(B) an order requiring one or both parents to pay child support until the permanent termination of one or both of the parents' parental rights;

(C) the permanent termination of one or both of the parents' parental rights; ~~and~~

(D) *the appointment of a SOUL family legal permanency custodian for the child; and*

(E) the appointment of a permanent custodian for the child.

If you cannot attend the hearing you may send a written response to the petition to the clerk of the court."

(10) The petition shall contain the following statement: "You may receive further notices of other hearings, proceedings and actions in this case which you may attend. These notices will be sent to you by first class mail to your last known address or an address you provide to the court. It is your responsibility to keep the court informed of your current address."

(b) *Motions.* Motions may be made orally or in writing. The motion shall state with particularity the grounds for the motion and shall state the relief or order sought.

Sec. 5. K.S.A. 2023 Supp. 38-2255 is hereby amended to read as follows: 38-2255. (a) *Considerations.* Prior to entering an order of disposition, the court shall give consideration to:

(1) The child's physical, mental and emotional condition;

(2) the child's need for assistance;

(3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;

(4) any relevant information from the intake and assessment process; and

(5) the evidence received at the dispositional hearing.

(b) *Custody with a parent.* The court may place the child in the custody of either of the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

(1) Supervision of the child and the parent by a court services officer;

(2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and

(3) any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) *Removal of a child from custody of a parent.* The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that:

(1) (A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists ~~which~~ *that* threatens the safety to the child.

The court shall not enter an order removing a child from the custody of a parent pursuant to this section based solely on the finding that the parent is homeless.

(d) *Custody of a child removed from the custody of a parent.* If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to: A relative of the child or to a person with whom the child has close emotional ties who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto; any other suitable person; a shelter facility; a youth residential facility; a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 21-6419, and amendments thereto; or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody. After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best in-

terests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from: Residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption ~~or~~, a permanent custodian appointed *or a SOUL family legal permanency custodian appointed*. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: (A) Murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 21-5402, and amendments thereto; (B) murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 21-5401, and amendments thereto; (D) voluntary manslaughter, K.S.A. 21-3403, prior

to its repeal, or K.S.A. 21-5404, and amendments thereto; or (E) a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

(4) whether the child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which a child in the secretary's custody was removed from the child's home;

(5) whether the parents have failed to work diligently toward reintegration;

(6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and

(7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) *Proceedings if reintegration is not a viable alternative.* If the court determines that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian *or a SOUL family legal permanency custodian* shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian *or a SOUL family legal permanency custodian* would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian *or SOUL family legal permanency custodian pursuant to section 1, and amendments thereto,* within 30 days and the court shall hold a hearing on the motion within 90 days of its filing. No hearing is required when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian *or a SOUL family legal permanency custodian*.

(g) *Additional orders.* In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of

K.S.A. 21-5701 through 21-5717, and amendments thereto, by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and complete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-3101 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

(h) For the purposes of this section, "harassing or intimidating" and "harass or intimidate" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.

Sec. 6. K.S.A. 38-2263 is hereby amended to read as follows: 38-2263. (a) The goal of permanency planning is to assure, in so far as is possible, that children have permanency and stability in their living situations and that the continuity of family relationships and connections is preserved. In planning for permanency, the safety and well being of children shall be paramount.

(b) Whenever a child is subject to the jurisdiction of the court pursuant to the code, an initial permanency plan shall be developed for the child and submitted to the court within 30 days of the initial order of the court. If the child is in the custody of the secretary, or the secretary is providing services to the child, the secretary shall prepare the plan. Otherwise, the plan shall be prepared by the person who has custody or, if directed by the court, by a court services officer.

(c) A permanency plan is a written document prepared in consultation with the child, if the child is 14 years of age or older and the child is able, and, where possible, in consultation with the child's parents, and ~~which~~ *that*:

(1) Describes the permanency goal ~~which~~ *that*, if achieved, will most likely give the child a permanent and safe living arrangement;

(2) describes the child's level of physical health, mental and emotional health, and educational functioning;

(3) provides an assessment of the needs of the child and family;

(4) describes the services to be provided the child, the child's parents and the child's foster parents, if appropriate;

(5) includes a description of the tasks and responsibilities designed to achieve the plan and to whom assigned; and

(6) includes measurable objectives and time schedules for achieving the plan.

(d) In addition to the requirements of subsection (c), if the child is in an out of home placement, the permanency plan shall include:

(1) A plan for reintegration of the child's parent or parents or if reintegration is determined not to be a viable alternative, a statement for the basis of that conclusion and a plan for ~~another permanent living arrangement~~ *permanency identified in K.S.A. 38-2264(b)(2) through (b)(5), and amendments thereto*;

(2) a description of the available placement alternatives;

(3) a justification for the placement selected, including a description of the safety and appropriateness of the placement; and

(4) a description of the programs and services which will help the child prepare to live independently as an adult.

(e) If there is a lack of agreement among persons necessary for the success of the permanency plan, the person or entity having custody of the child shall notify the court which shall set a hearing on the plan.

(f) A permanency plan may be amended at any time upon agreement of the plan participants. If a permanency plan requires amendment which changes the permanency goal, the person or entity having custody of the child shall notify the court which shall set a permanency hearing pursuant to K.S.A. 38-2264 and 38-2265, and amendments thereto.

Sec. 7. K.S.A. 38-2264 is hereby amended to read as follows: 38-2264. (a) A permanency hearing is a proceeding conducted by the court or by a citizen review board for the purpose of determining progress toward accomplishment of a permanency plan as established by K.S.A. 38-2263, and amendments thereto.

(b) The court or a citizen review board shall hear and the court shall determine whether and, if applicable, when the child will be:

(1) Reintegrated with the child's parents;

(2) placed for adoption;

(3) placed with a permanent custodian;~~ or~~

(4) *if the child is 16 years of age or older, placed with a SOUL family legal permanency custodian; or*

(5) if the child is 16 years of age or older and the secretary has documented compelling reasons why it would not be in the child's best interests for a placement in one of the placements pursuant to paragraphs (1)~~, (2) or (3)~~ *through (4)*, placed in another planned permanent living arrangement.

(c) At each permanency hearing, the court shall:

(1) Enter a finding as to whether reasonable efforts have been made by appropriate public or private agencies to rehabilitate the family and achieve the permanency goal in place at the time of the hearing;

(2) enter a finding as to whether the reasonable and prudent parenting standard has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The secretary shall report to the court the steps the secretary is taking to ensure that the child's foster family home or child care institution is following the reasonable and prudent parenting standard and that the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities, including consultation with the child in an age-appropriate manner about the opportunities of the child to participate in the activities; *and*

(3) if the child is 14 years of age or older, document the efforts made by the secretary to help the child prepare for the transition from custody to a successful adulthood. The secretary shall report to the court the programs and services that are being provided to the child that will help the child prepare for the transition from custody to a successful adulthood.

(d) The requirements of this subsection shall apply only if the permanency goal in place at the time of the hearing is another planned permanent living arrangement as described in subsection ~~(b)(4)~~ *(b)(5)*. At each permanency hearing held with respect to the child, in addition to the requirements of subsection (c), the court shall:

(1) Ask the child, if the child is able, by attendance at the hearing or by report to the court, about the desired permanency outcome for the child;

(2) document the intensive, ongoing and, as of the date of the hearing, unsuccessful permanency efforts made by the secretary to return the child home or secure a placement for the child with a fit and willing relative, a legal *custodian or* guardian or an adoptive parent. The secretary shall report to the court the intensive, ongoing and, as of the date of the hearing, unsuccessful efforts made by the secretary to return the child home or secure a placement for the child with a fit and willing relative, a legal *custodian or* guardian or an adoptive parent, including efforts that utilize search technology, including social media, to find biological family members of the children; and

(3) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home, be placed for adoption, be placed with a legal *custodian or* guardian or be placed with a fit and willing relative.

(e) The requirements of this subsection shall apply only if the child is placed in a qualified residential treatment program at the time of the permanency hearing. At each permanency hearing held with respect to the child, in addition to the requirements of subsection (c), the court shall document:

(1) That the ongoing assessment of the strengths and needs of the child continues to support the determination that the needs of the child cannot be met through placement in a foster family home, that the placement in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment, and that the placement is consistent with the short-term and long-term goals for the child, as specified in the permanency plan for the child;

(2) the specific treatment or service needs that will be met for the child in the placement and the length of time the child is expected to need the treatment or services; and

(3) the efforts made by the secretary to prepare the child to return home or to be placed with a fit and willing relative, a legal *custodian or* guardian, or an adoptive parent, or in a foster family home.

(f) A permanency hearing shall be held within 12 months of the date the court authorized the child's removal from the home and not less frequently than every 12 months thereafter. If the court makes a finding that the requirements of subsection (c)(1) or (2) have not been met, a subsequent permanency hearing shall be held no later than 60 days following the finding.

(g) If the court determines at any time other than during a permanency hearing that reintegration may not be a viable alternative for the child,

a permanency hearing shall be held ~~no~~ *not* later than 30 days following that determination.

(h) When the court finds that reintegration continues to be a viable alternative, the court shall determine whether and, if applicable, when the child will be returned to the parent. The court may rescind any of its prior dispositional orders and enter any dispositional order authorized by this code or may order that a new plan for the reintegration be prepared and submitted to the court. If reintegration cannot be accomplished as approved by the court, the court shall be informed and shall schedule a hearing pursuant to this section. No such hearing is required when the parents voluntarily relinquish parental rights or consent to appointment of a permanent custodian *or a SOUL family legal permanency custodian*.

(i) If the court finds reintegration is no longer a viable alternative, the court shall consider whether: (1) The child is in a stable placement with a relative; (2) services set out in the case plan necessary for the safe return of the child have been made available to the parent with whom reintegration is planned; or (3) compelling reasons are documented in the case plan to support a finding that neither adoption nor appointment of a permanent custodian are in the child's best interest. If reintegration is not a viable alternative and either adoption or appointment of a permanent custodian might be in the best interests of the child, the county or district attorney or the county or district attorney's designee shall file a motion to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall set a hearing on such motion within 90 days of the filing of such motion.

(j) If the court enters an order terminating parental rights to a child, or an agency has accepted a relinquishment pursuant to K.S.A. 59-2124, and amendments thereto, the requirements for permanency hearings shall continue until an adoption or appointment of a permanent custodian *or a SOUL family legal permanency custodian* has been accomplished *and court jurisdiction has been terminated*. If the court determines that reasonable efforts or progress have not been made toward finding an adoptive placement or appointment of a permanent custodian *or a SOUL family legal permanency custodian* or placement with a fit and willing relative, the court may rescind its prior orders and make others regarding custody and adoption that are appropriate under the circumstances. Reports of a proposed adoptive placement need not contain the identity of the proposed adoptive parents.

(k) If permanency with one parent has been achieved without the termination of the other parent's rights, the court may, prior to dismissing the case, enter child custody orders, including residency and parenting time that the court determines to be in the best interests of the child. The

court shall complete a parenting plan pursuant to K.S.A. 23-3213, and amendments thereto.

(1) Before entering a custody order under this subsection, the court shall inquire whether a custody order has been entered or is pending in a civil custody case by a court of competent jurisdiction within the state of Kansas.

(2) If a civil custody case has been filed or is pending, a certified copy of the custody, residency and parenting time orders shall be filed in the civil custody case. The court in the civil custody case may, after consultation with the court in the child in need of care case, enter an order declaring that the custody order in the child in need of care case shall become the custody order in the civil custody case.

(3) A district court, on its own motion or upon the motion of any party, may order the consolidation of the child in need of care case with any open civil custody case involving the child and both of the child's parents. Custody, residency and parenting time orders entered in consolidated child in need of care and civil custody cases take precedence over any previous orders affecting both parents and the child that were entered in the civil custody case regarding the same or related issues. Following entry of a custody order in a consolidated case, the court shall dismiss the child in need of care case and, if necessary, return the civil custody case to the original court having jurisdiction over ~~it~~ *the case*.

(4) If no civil custody case has been filed, the court may direct the parties to file a civil custody case and to file the custody orders from the child in need of care case in that case. Costs of the civil custody case may be assessed to the parties.

(5) Nothing in this subsection shall operate to expand access to information that is confidential under K.S.A. 38-2209, and amendments thereto, and the confidentiality of such information shall be preserved in all filings in a civil custody case.

(l) When permanency has been achieved to the satisfaction of the court, the court shall enter an order closing the case.

Sec. 8. K.S.A. 38-2266 is hereby amended to read as follows: 38-2266. (a) Either in the original petition filed under this code or in a motion made in an existing proceeding under this code, any party or interested party may request that either or both parents be found unfit and the parental rights of either or both parents be terminated or a permanent custodian *or a SOUL family legal permanency custodian* be appointed.

(b) Whenever a pleading is filed requesting termination of parental rights or appointment of a permanent custodian *or a SOUL family legal permanency custodian*, the pleading shall contain a statement of specific facts which are relied upon to support the request, including dates, times and locations to the extent known.

(c) In any case in which a parent of a child cannot be located by the exercise of due diligence, service by publication notice shall be ordered upon the parent.

Sec. 9. K.S.A. 38-2268 is hereby amended to read as follows: 38-2268. (a) Prior to a hearing to consider the termination of parental rights, if the child's permanency plan is either adoption or appointment of a *permanent* custodian *or a SOUL family legal permanency custodian*, with the approval of the guardian ad litem and acceptance and approval of the secretary, either or both parents may: Relinquish parental rights to the child to the secretary; consent to an adoption; or consent to appointment of a permanent custodian *or a SOUL family legal permanency custodian*.

(b) *Relinquishment of child to secretary.* (1) Any parent or parents may relinquish a child to the secretary, and if the secretary accepts the relinquishment in writing, the secretary shall stand in loco parentis to the child and shall have and possess over the child all rights of a parent, including the power to place the child for adoption and give consent thereto.

(2) All relinquishments to the secretary shall be in writing, in substantial conformity with the form for relinquishment contained in the appendix of forms following K.S.A. 59-2143, and amendments thereto, and shall be executed by either parent of the child.

(3) The relinquishment shall be in writing and shall be acknowledged before a judge of a court of record or before an officer authorized by law to take acknowledgments. If the relinquishment is acknowledged before a judge of a court of record, it shall be the duty of the court to advise the relinquishing parent of the consequences of the relinquishment.

(4) Except as otherwise provided, in all cases where a parent has relinquished a child to the agency pursuant to K.S.A. 59-2111 through 59-2143, and amendments thereto, all the rights of the parent shall be terminated, including the right to receive notice in a subsequent adoption proceeding involving the child. Upon such relinquishment, all the rights of the parents to such child, including such parent's right to inherit from or through such child, shall cease.

(5) If a parent has relinquished a child to the secretary based on a belief that the child's other parent would relinquish the child to the secretary or would be found unfit, and this does not occur, the rights of the parent who has relinquished a child to the secretary shall not be terminated.

(6) A parent's relinquishment of a child shall not terminate the right of the child to inherit from or through the parent.

(c) *SOUL family legal permanency. (1) A parent may consent to SOUL family legal permanency pursuant to section 1, and amendments thereto. If the individual designated as the SOUL family legal permanency custodian consents to the appointment and such individual is approved*

by the court, such individual shall have and possesses over the child all the rights and responsibilities of a permanent custodian subject to section 1, and amendments thereto.

(2) Each consent to the appointment of a SOUL family legal permanency custodian shall be in writing and executed by either parent or legal guardian of the child.

(d) Permanent custody. (1) A parent may consent to appointment of an individual as permanent custodian and if the individual accepts the consent, such individual shall stand in loco parentis to the child and shall have and possess over the child all the rights of a legal guardian.

(2) All consents to appointment of a permanent custodian shall be in writing and shall be executed by either parent of the child.

(3) The consent shall be in writing and shall be acknowledged before a judge of a court of record or before an officer authorized by law to take acknowledgments. If the consent is acknowledged before a judge of a court of record, it shall be the duty of the court to advise the consenting parent of the consequences of the consent.

(4) If a parent has consented to appointment of a permanent custodian based upon a belief that the child's other parent would so consent or would be found unfit, and this does not occur, the consent shall be null and void.

~~(d)~~*(e) Adoption.* If the child is in the custody of the secretary and the parental rights of both parents have been terminated or the parental rights of one parent have been terminated or that parent has relinquished parental rights to the secretary, the child may be adopted by persons approved by the secretary and the court. If the child is no longer in the custody of the secretary, the court may approve adoption of the child by persons who:

(1) Both parents consent to adopt; or

(2) one parent consents to adopt, if the parental rights of the other parent have been terminated. The consent shall follow the form contained in the appendix of forms following K.S.A. 59-2143, and amendments thereto.

Sec. 10. K.S.A. 38-2234, 38-2263, 38-2264, 38-2266 and 38-2268 and K.S.A. 2023 Supp. 38-2202, 38-2202a, 38-2203 and 38-2255 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 15, 2024.

CHAPTER 48

HOUSE BILL No. 2549

AN ACT concerning adoption; relating to the Kansas adoption and relinquishment act, adoption, termination of parental rights; requiring notice of a hearing on a petition for adoption, petitions to be filed as part of a petition for adoption or in connection with an adoption; setting requirements for petitions filed separately from adoption proceedings; amending K.S.A. 2023 Supp. 59-2133 and 59-2136 and repealing the existing sections.

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

Section 1. K.S.A. 2023 Supp. 59-2133 is hereby amended to read as follows: 59-2133. (a) Upon filing the petition, the court shall fix the time and place for the hearing. The time fixed for the hearing ~~may be any time not more than~~ *shall be within* 60 days from the date the petition is filed. The time fixed for the hearing may be extended by the court for good cause.

(b) ~~In independent and stepparent adoptions,~~ Notice of the hearing on the petition shall be given to ~~the parents or possible parents~~ *persons entitled to notice* at least 10 ~~calendar~~ days before the hearing~~, unless waived by the party entitled to notice or unless parental rights have been previously terminated, and to any person who has physical custody of the child, unless waived by the person entitled to notice. Notice also shall be given in an independent adoption to a legal guardian of the child, unless waived by the party entitled to notice~~. *Persons who receive notice pursuant to this section shall not be made a party or granted standing based solely on the provision of such notice.*

(c) ~~In an agency adoption~~ *Except as provided in subsection (d)*, notice of the hearing on the petition shall be given*:*

(1) In an independent or stepparent adoption, to:

(A) ~~to the consenting agency,~~ The parents*, presumed parents* or possible parents*;*

(B) ~~, any relinquishing party and~~ any person who has physical custody of the child ~~at least 10 calendar days before the hearing, unless waived by the person entitled to notice~~*; and*

(C) any legal guardian of the child;

(2) in a private agency adoption, to:

(A) The consenting agency;

(B) the parents, presumed parents or possible parents;

(C) any relinquishing person;

(D) any person who has physical custody of the child; and

(E) any legal guardian of the child; and

(3) in a public agency adoption, to the consenting agency.

(d) *Notice of the hearing on the petition is not required to be given to:*

(1) A person whose parental rights have been terminated by an order of a court of competent jurisdiction; or

(2) a person or agency that has waived in writing the right to receive notice.

(e) Notice of the hearing shall be by personal service, certified mail return receipt requested or in any other manner the court may direct. Notice given pursuant to this section shall not include a copy of the petition.

Sec. 2. K.S.A. 2023 Supp. 59-2136 is hereby amended to read as follows: 59-2136. (a) The provisions of this section shall apply where a relinquishment or consent to an adoption has not been obtained from a parent and K.S.A. 59-2124 and 59-2129, and amendments thereto, state that the necessity of a parent's relinquishment or consent can be determined under this section.

(b) Insofar as practicable, the provisions of this section applicable to the father also shall apply to the mother and those applicable to the mother also shall apply to the father.

(c) The court shall appoint an attorney to represent any father who is unknown or whose whereabouts are unknown. If no person is identified as the father or a possible father, or if the father's whereabouts are unknown, the court shall order publication notice of the hearing in such manner as the court deems appropriate.

(d) (1) A petition to terminate parental rights *pursuant to the Kansas adoption and relinquishment act* may be filed *only* as part of a petition for adoption or as ~~an independent~~ *a separate* action *in connection with an adoption proceeding filed or to be filed in the same or another proper venue*.

(2) If ~~the request~~ *a petition* to terminate parental rights is ~~not~~ filed ~~as part of an adoption proceeding,~~ *separately from a petition for adoption under this act:*

(A) Venue *for the proceedings to terminate parental rights* shall be in the county ~~in which~~ *where* the child or a parent resides or is found*; and*

(B) an order granting such petition:

(i) Shall be in substantial compliance with the form set forth by the judicial council;

(ii) is a final judgment that is appealable as a matter of right;

(iii) if not appealed, shall satisfy the requirement contained in K.S.A. 59-2128, and amendments thereto, to demonstrate that the necessity for the consent or relinquishment is eliminated; and

(iv) shall be effective only upon the filing of a decree of adoption.

~~(2)~~*(3)* The petition *to terminate parental rights* may be filed by a parent, the petitioner for adoption, the person or agency having legal custody of the child~~,~~ or the agency to which the child has been relinquished.

~~(3)~~*(4)* Absent a finding of good cause by a court with jurisdiction under this act, a proceeding to terminate parental rights shall have precedence over any proceeding involving custody of the child under the

Kansas family law code, K.S.A. 23-2101 et seq., and amendments thereto, or the protection from abuse act, K.S.A. 60-3101 et seq., and amendments thereto, until a final order is entered on the termination issues or until further orders of the court.

(e) In an effort to identify the father, the court shall determine by deposition, affidavit or hearing, the following:

(1) Whether there is a presumed father under K.S.A. 23-2208, and amendments thereto;

(2) whether there is a father whose relationship to the child has been determined by a court;

(3) whether there is a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction;

(4) whether the mother was cohabitating with a man at the time of conception or birth of the child;

(5) whether the mother has received support payments or promises of support with respect to the child or in connection with such mother's pregnancy; and

(6) whether any person has formally or informally acknowledged or declared such person's possible parentage of the child.

If the father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subsection (f).

(f) Notice of the proceeding shall be given to every person identified as the father or a possible father by personal service, certified mail return receipt requested or in any other manner the court may direct. Notice shall be given at least 10 calendar days before the hearing, unless waived by the person entitled to notice. Proof of notice or waiver of notice shall be filed with the court before the petition or request is heard.

(g) (1) If, after the inquiry, the court is unable to identify the father or any possible father and no person has appeared claiming to be the father and claiming custodial rights, the court shall enter an order terminating the unknown father's parental rights with reference to the child without consideration of subsection (h).

(2) If any person identified as the father or possible father of the child fails to appear or, if appearing, fails to claim custodial rights, such person's parental rights with reference to the child shall be terminated without consideration of subsection (h).

(h) (1) When a father or alleged father appears and claims parental rights, the court shall determine parentage, if necessary pursuant to the Kansas parentage act, K.S.A. 23-2201 et seq., and amendments thereto. If a father desires but is financially unable to employ an attorney, the court shall appoint an attorney for the father. Thereafter, the court may order that parental rights be terminated and find the consent or relinquishment

unnecessary, upon a finding by clear and convincing evidence, of any of the following:

(A) The father abandoned or neglected the child after having knowledge of the child's birth;

(B) the father is unfit as a parent or incapable of giving consent;

(C) the father has made no reasonable efforts to support or communicate with the child after having knowledge of the child's birth;

(D) the father, after having knowledge of the pregnancy, failed without reasonable cause to provide support for the mother during the six months prior to the child's birth;

(E) the father abandoned the mother after having knowledge of the pregnancy;

(F) the birth of the child was the result of rape of the mother; or

(G) the father has failed or refused to assume the duties of a parent for two consecutive years immediately preceding the filing of the petition.

(2) In making a finding whether parental rights shall be terminated under this subsection, the court:

(A) Shall consider all of the relevant surrounding circumstances; and

(B) may disregard incidental visitations, contacts, communications or contributions.

(3) In determining whether the father has failed or refused to assume the duties of a parent for two consecutive years immediately preceding the filing of the petition for adoption, there shall be a rebuttable presumption that if the father, after having knowledge of the child's birth, has knowingly failed to provide a substantial portion of the child support as required by judicial decree, when financially able to do so, for a period of two years immediately preceding the filing of the petition for adoption, then such father has failed or refused to assume the duties of a parent.

(4) For the purposes of this subsection, "support" means monetary or non-monetary assistance that is reflected in specific and significant acts and sustained over the applicable period.

(i) A termination of parental rights under this section shall not terminate the right of the child to inherit from or through the parent. Upon such termination, all the rights of birth parents to such child, including their right to inherit from or through such child, shall cease.

Sec. 3. K.S.A. 2023 Supp. 59-2133 and 59-2136 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, 2024.

CHAPTER 49

HOUSE BILL No. 2629

AN ACT concerning children and minors; relating to the state child death review board; replacing sudden infant death with sudden unexplained infant death; requiring the secretary for health and environment to provide a death certificate to the state child death review board; listing requirements for notification of a deceased child; increasing the number of members appointed by the state board of healing arts to the state child death review board; allowing for compensation for board members; providing for the disclosure of certain records to certain persons for securing grants and public officials for supplemental information to the board's annual report; directing that records be kept for 15 years after a case is closed; amending K.S.A. 22a-242, 22a-243 and 22a-244 and repealing the existing sections.

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

Section 1. K.S.A. 22a-242 is hereby amended to read as follows: 22a-242. (a) When a child dies, any law enforcement officer, health care provider or other person having knowledge of the death shall immediately notify the coroner of the known facts concerning the time, place, manner and circumstances of the death. If the notice to the coroner identifies any suspicious circumstances or unknown cause, as described in the protocol developed by the state review board under K.S.A. 22a-243, and amendments thereto, the coroner shall immediately: (1) Investigate the death to determine whether the child's death included any such suspicious circumstance or unknown cause; and (2) direct a pathologist to perform an autopsy.

(b) If, after investigation and an autopsy, the coroner determines that the death of a child does not include any suspicious circumstances or unknown cause, as described in the protocol developed by the state review board under K.S.A. 22a-243, and amendments thereto, ~~the coroner shall complete and sign a nonsuspicious child death form~~ *no further action by the coroner is required*.

(c) If, after investigation and an autopsy, the coroner determines that the death of a child includes any suspicious circumstance or unknown cause, as described in the protocol developed by the state review board under K.S.A. 22a-243, and amendments thereto, the coroner ~~shall notify, within 30 days, the chairperson of the state review board and~~ shall notify, within 24 hours, the county or district attorney of the county where the death of the child occurred.

(d) The coroner shall attempt to notify any parent or legal guardian of the deceased child prior to the performance of an autopsy pursuant to this section ~~and attempt to notify any such parent or legal guardian of the results of the autopsy~~. *Once the autopsy has been completed, the coroner shall immediately notify the parent or legal guardian that such autopsy has been completed and provide information on how to obtain the results.*

(e) A coroner shall not make a determination that the death of a child less than one year of age was caused by sudden *unexplained* infant death syndrome unless an autopsy is performed.

(f) The fee for an autopsy performed under this section shall be the usual and reasonable fee and travel allowance authorized under K.S.A. 22a-233, and amendments thereto, and shall be paid from the district coroners fund.

(g) The secretary for health and environment shall provide a copy of the death certificate to the state child death review board that meets requirements developed by the board pursuant to K.S.A. 22a-243, and amendments thereto.

Sec. 2. K.S.A. 22a-243 is hereby amended to read as follows: 22a-243. (a) There is hereby established a state child death review board, which shall be composed of:

(1) One member appointed by each of the following officers to represent the officer's agency: The attorney general, the director of the Kansas bureau of investigation, the secretary for children and families, the secretary of health and environment and the commissioner of education;

(2) ~~three~~ *four* members appointed by the state board of healing arts, one of whom shall be a district coroner and ~~two~~ *three* of whom shall be physicians licensed to practice medicine and surgery, one specializing in pathology and ~~the other~~ *two* specializing in pediatrics;

(3) one person appointed by the attorney general to represent advocacy groups that focus attention on child abuse awareness and prevention; and

(4) one county or district attorney appointed by the Kansas county and district attorneys association.

(b) The chairperson of the state review board shall be the member appointed by the attorney general to represent the office of the attorney general.

(c) The state child death review board shall be within the office of the attorney general as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the attorney general. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the attorney general. The state review board shall establish and maintain an office in Topeka.

(d) The state review board shall meet at least annually to review all reports submitted to the board. The chairperson of the state review board may call a special meeting of the board at any time to review any report of a child death.

(e) *When informed of a child death, the state review board shall review all child deaths of:*

(1) Kansas residents who are less than 18 years of age, regardless of where such death occurred; and

(2) non-Kansas residents who are less than 18 years of age if such death occurred in Kansas.

(f) Within the limits of appropriations therefor, the state review board shall appoint an executive director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the state review board.

~~(f)~~*(g)* Within the limits of appropriations therefor, the state review board may employ other persons who shall be in the classified service of the Kansas civil service act.

~~(g)~~*(h)* Members of the state review board ~~shall not~~ *may* receive compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto, for attending meetings or subcommittee meetings of the board. *Compensation, subsistence allowances, mileage and expenses shall be approved by the chairperson of the state review board and the attorney general.*

~~(h)~~*(i)* The state review board shall develop a protocol to be used by the state review board. The protocol shall include written guidelines for coroners to use in identifying any suspicious deaths, procedures to be used by the board in investigating child deaths, methods to ensure coordination and cooperation among all agencies involved in child deaths and procedures for facilitating prosecution of perpetrators when it appears the cause of a child's death was from abuse or neglect. The protocol shall be adopted by the state review board by rules and regulations.

~~(i)~~*(j)* The state review board shall submit an annual report to the governor and the legislature on or before October 1 of each year, commencing October 1993. Such report shall include the findings of the board regarding reports of child deaths, the board's analysis and the board's recommendations for improving child protection, including recommendations for modifying statutes, rules and regulations, policies and procedures.

~~(j)~~*(k)* Information acquired by, and records of, the state review board shall be confidential, shall not be disclosed and shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding, except that the state review board or the board's designee may disclose such information and records to:

(1) Any member of the legislature or a legislative committee that has legislative responsibility of the enabling or appropriating legislation, if such member or committee is carrying out the official functions of such member or committee, and if any such committee recesses into a closed or executive meeting pursuant to K.S.A. 75-4319(a), and amendments thereto, and has taken appropriate steps to preserve its privacy;

(2) any person or entity contracting with the state review board, if the board has determined that disclosure of such information and records is essential for completion of the contract, and the board has taken appropriate steps to preserve confidentiality;

(3) any person or entity, if the information and records being disclosed are statistics or conclusions of the state review board of the same type included in its annual report pursuant to subsection ~~(i)~~ *(j)*;

(4) any law enforcement agency of the state or any political subdivision thereof, if the state review board determines that the information and records being disclosed were not previously available to such law enforcement agency for the investigation of the cause of the child's death; and:

(A) The board determines that the cause of the child's death was from abuse or neglect; or

(B) the board does not determine that the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in K.S.A. 21-2501a, and amendments thereto, of abuse or neglect involving the death of a child;

(5) any county or district attorney, if the state review board determines that the information and records being disclosed were not previously available to such county or district attorney for the prosecution of any crimes related to the cause of the child's death; and:

(A) The board determines that the cause of the child's death was from abuse or neglect; or

(B) the board does not determine that the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in K.S.A. 21-2501a, and amendments thereto, of abuse or neglect involving the death of a child;

(6) (A) any entity established by a city or county for the express purpose of providing a local review of child deaths if the information and records being disclosed are related to a child's death in an instance when:

(i) Such death occurred in such city or county; or

(ii) such child was a resident of such city or county;

(B) the provisions of this paragraph shall expire on July 1, 2026, unless the legislature reviews and reenacts such provisions prior to July 1, 2026; and

(C) the joint committee on child welfare system oversight shall review the provisions of this paragraph pursuant to K.S.A. 46-3901, and amendments thereto;

(7) any licensing body as defined by K.S.A. 74-146, and amendments thereto, if:

(A) The information and records being disclosed are related to a disciplinary complaint against a person licensed by such licensing body;

(B) any member of the state review board is under a professional obligation to make a disciplinary complaint against a person licensed by such licensing body; or

(C) a person licensed by such licensing body may have caused or contributed to the child's death; ~~and~~

(8) a governmental agency or an organization that has a federalwide assurance (FWA) for the protection of human subjects in good standing with the United States department of health and human services officer for human research protections, if:

(A) The agency or organization provides documentation that an institutional review board designated in the FWA has reviewed the organization's research proposal;

(B) personally identifiable information is redacted from the disclosure;

(C) the disclosure is only for the purpose of health or education; and

(D) the agency or organization requires all persons granted access to the disclosed information and records to sign a confidentiality agreement prior to receipt of the disclosed information and records*;*

(9) any person or entity, if the information and records being disclosed are statistics or conclusions of the state review board and provided for the purpose of procuring and maintaining financial grants; and

(10) the governor and legislature, if the information and records being disclosed are statistics or conclusions of the state review board and provided for the purpose of supplementing the state review board's annual report.

~~(k)~~*(l)* The state review board may adopt rules and regulations as necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244, and amendments thereto.

Sec. 3. K.S.A. 22a-244 is hereby amended to read as follows: 22a-244. (a) Within 72 hours after receipt of notification from a coroner pursuant to K.S.A. 22a-242, and amendments thereto, the chairperson of the state review board may activate the board to investigate and make a written report regarding the death.

(b) The state review board shall have access to all law enforcement investigative information regarding the death~~,~~, any autopsy records and coroner's investigative records relating to the death~~,~~, any medical records of the child, and any records of the Kansas department for children and families or any other social service agency ~~which~~ *that* has provided services to the child or the child's family ~~within three years~~ preceding the child's death.

(c) The state review board may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the board. Any books, records or papers received by

the board pursuant to the subpoena shall be regarded as confidential and privileged information and not subject to disclosure.

(d) The state review board's report shall contain the circumstances leading up to the death and cause of death; any social service agency involvement prior to death, including the kinds of services delivered to the dead child or the child's parents, siblings or any other children in the home; the reasons for initial social service agency activity and the reasons for any termination of agency activities if involvement was terminated; whether court intervention had ever been sought and, if so, any action taken by the court; and recommendations for prevention of future death under similar circumstances.

(e) ~~Within 15 days of its activation pursuant to this section, the state review board shall complete and transmit a copy of its written report to the county or district attorney of the county in which the child's death occurred. If the death of the child occurred in a different county than where the child resided, a copy of the report shall be sent to the county or district attorney of the county where the child resided or, if the child resided in another state, to the child protective services agency of that state.~~

~~(f)~~ The state review board shall maintain ~~permanent~~ records of all written reports concerning child deaths *for at least 15 years after the date a case is closed*.

~~(g)~~*(f)* The state review board may disclose its conclusions regarding a report of a child death but shall not disclose any information received by the board ~~which~~ *that* is not subject to public disclosure by the agency that provided the information to the board.

~~(h)~~*(g)* Information, documents and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the state review board. A person who presented information before the board or who is a member of the board shall not be prevented from testifying about matters within the person's knowledge.

Sec. 4. K.S.A. 22a-242, 22a-243 and 22a-244 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 15, 2024.

CHAPTER 50

HOUSE BILL No. 2790

AN ACT concerning labor and employment; relating to professional employer organizations; transferring registration requirements, related compliance oversight and enforcement authority for such organizations from the commissioner of insurance to the secretary of state, effective January 1, 2025; requiring the filing of initial and renewal registration applications, reports, financial statements and other assurance documents with the secretary; providing for fees to be submitted to the secretary and granting the secretary responsibility over the professional employer organization fee fund; ensuring that welfare benefit plans offered by professional employer organizations to employees and covered employees are treated as a single employer welfare benefit plan for purposes of state law; amending K.S.A. 44-1702, 44-1704, 44-1705, 44-1706, 44-1708, 44-1709 and 44-1710 and repealing the existing sections.

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

Section 1. On January 1, 2025, K.S.A. 44-1702 is hereby amended to read as follows: 44-1702. As used in K.S.A. 44-1701 through 44-1711, and amendments thereto:

(a) "Client" means any person who enters into a professional employer agreement with a professional employer organization.

(b) "Co-employer" means either a professional employer organization or a client.

(c) "Co-employment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project specific relationship, and wherein the rights, duties and obligations of an employer which arise out of an employment relationship have been allocated between the employer and a professional employer organization as co-employers pursuant to a professional employer agreement entered into in accordance with the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto. Under a co-employment relationship:

(1) The professional employer organization is entitled to enforce only those employer rights, and is subject to only those employer obligations, that are specifically allocated to the professional employer organization by the professional employer agreement or by the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto;

(2) the client is entitled to enforce those employer rights, and is obligated to provide and perform those employer obligations, that are allocated to such client by the professional employer agreement or by the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto; and

(3) the client also is entitled to enforce any employer right, and is obligated to perform any obligation of an employer, that is not specifically allocated to the professional employer organization by the professional employer agreement or by the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto.

(d) ~~"Commissioner" means the commissioner of insurance.~~

~~(e)~~(1) "Covered employee" means an individual having a co-employment relationship with a professional employer organization and a client, who has received written notice of the co-employment relationship with the professional employer organization and the client, and such co-employment relationship was entered into pursuant to a professional employer agreement entered into in accordance with the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto.

(2) The term "covered employee" shall include individuals who are officers, directors, shareholders, partners or managers of the client, or members of a limited liability company that is a client, if:

(A) The professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals are covered employees;

(B) such individuals satisfy the provisions of paragraph (1); and

(C) such individuals act as operational managers or perform day-to-day operational services for the client.

~~(f) "Department" means the department of insurance.~~

~~(g)~~*(e)* "Person" means any individual, partnership, corporation, limited liability company, association or any other form of legally recognized entity.

~~(h)~~*(f)* "Professional employer agreement" means a written contract entered into between a client and a professional employer organization that provides:

(1) For the co-employment of covered employees;

(2) for the allocation of employer rights and obligations between the client and the professional employer organization with respect to covered employees; and

(3) for the professional employer organization and the client to assume the responsibilities required by the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto.

~~(i)~~*(g)* (1) "Professional employer organization" means any person engaged in the business of providing professional employer services. A person engaged in the business of providing professional employer services shall be considered a "professional employer organization" regardless of such person's use of the term staff leasing company, administrative employer, employee leasing company or any name other than professional employer organization in describing such person's business.

(2) For purposes of K.S.A. 44-1701 through 44-1711, and amendments thereto, the following shall not be considered a "professional employer organization," or as providing "professional employment services":

(A) Arrangements wherein a person, whose principal business activity is not entering into professional employer agreements, and which does

not hold itself out as a professional employer organization, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the internal revenue code;

(B) independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by such person or such person's agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements; and

(C) providing temporary help services.

~~(j)~~*(h)* "Professional employer group" means two or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent or controlling person.

~~(k)~~*(i)* "Professional employer services" means the service of entering into co-employment relationships.

~~(l)~~*(j)* "Registrant" means a professional employer organization registered under the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto.

(k) "Secretary" means the secretary of state.

~~(m)~~*(l)* "Temporary help services" means services consisting of a person:

(1) Recruiting and hiring such person's own employees;

(2) locating other organizations that need the services of such employees;

(3) assigning such employees:

(A) To perform work at or services for such other organizations to support or supplement such other organizations' workforces;

(B) to provide assistance in special work situations, including employee absences, skill shortages or seasonal workloads; or

(C) to perform special assignments or projects; and

(4) customarily attempting to reassign such employees to other organizations when such employees finish an assignment.

~~(n)~~*(m)* "Working capital" means current assets less current liabilities, as such terms are used by generally accepted accounting principles.

Sec. 2. On January 1, 2025, K.S.A. 44-1704 is hereby amended to read as follows: 44-1704. (a) A person engaged in the business of providing professional employer services pursuant to co-employment relationships in which all or a majority of the employees of a client are covered employees shall be registered pursuant to this section.

(b) A person who is not registered pursuant to this section shall not offer or provide professional employer services in this state, and shall not use the names PEO, professional employer organization, staff leasing company, employee leasing company, administrative employer or any other name or title representing professional employer services.

(c) Each applicant for registration shall submit an application to the ~~commissioner~~ *secretary* in such form and manner as prescribed by the ~~commissioner~~ *secretary*. The application shall contain the following information:

(1) The name or names under which the professional employer organization conducts business;

(2) the address of the principal place of business of the professional employer organization, and the address of each office the professional employer organization maintains in this state;

(3) the professional employer organization's taxpayer or employer identification number;

(4) a list, by jurisdiction, of each name under which the professional employer organization has operated in the preceding five years, including any alternative names, names of predecessors and, if known, successor business entities;

(5) a statement of ownership that shall include the name and evidence of the business experience of any person that, individually, or acting in concert with one or more other persons, owns or controls, directly or indirectly, 15% or more of the equity interest of the professional employer organization;

(6) a statement of management that shall include the name and evidence of the business experience of any individual who serves as president, chief executive officer or otherwise has the authority to act as senior executive officer of the professional employer organization; and

(7) a financial statement setting forth the financial condition of the professional employer organization or professional employer group that shall comply with the provisions of subsection (h).

(d) ~~(1) Each professional employer organization operating within this state as of the effective date of this act shall complete its initial registration not later than 60 days after the effective date of this act. Such initial registration shall be valid until 60 days from the end of the professional employer organization's first fiscal year that is more than one year after the effective date of this act.~~

~~(2)~~ Each professional employer organization not operating within this state as of the effective date of this act shall complete its initial registration prior to initiating operations within this state. If a professional employer organization not registered in this state becomes aware that an existing client, not based in this state, has employees and operations in this state, the professional employer organization shall either decline to provide professional employer services for those employees, or notify the ~~commissioner~~ *secretary* within five business days of the professional employer organization's knowledge of this fact and file a limited registration application pursuant to subsection (g), or a full registration if there are more than 50 covered em-

ployees employed by such client. The ~~commissioner~~ *secretary* may issue an interim operating permit for the period of time the application is pending if the professional employer organization is currently registered or licensed by another state and the ~~commissioner~~ *secretary* determines it is in the best interests of the potential covered employees.

(e) A registrant's application shall automatically expire 120 days after the end of the registrant's fiscal year. Within 120 days after the end of a registrant's fiscal year, such registrant shall renew its registration by notifying the ~~commissioner~~ *secretary* of any changes in the information provided in such registrant's most recent registration or renewal. A registrant's existing registration shall remain in effect for the period of time the renewal application is pending.

(f) Professional employer organizations in a professional employer group may satisfy any reporting and financial requirements of this section on a combined or consolidated basis, provided that each member of the professional employer group guarantees the financial capacity obligations required by K.S.A. 44-1706, and amendments thereto, of each other member of the professional employer group. In the case of a professional employer group that submits a combined or consolidated audited financial statement, including entities that are not professional employer organizations or that are not in the professional employer group, the controlling entity of the professional employer group under the consolidated or combined statement must guarantee the obligations of the professional employer organizations in the professional employer group.

(g) (1) A professional employer organization is eligible for a limited registration if such professional employer organization:

(A) Submits a written request for limited registration in such form and manner as prescribed by the ~~commissioner~~ *secretary*;

(B) is domiciled outside this state and is licensed or registered as a professional employer organization in another state;

(C) does not maintain an office in this state or directly solicit clients located or domiciled within this state; and

(D) does not have more than 50 covered employees employed or domiciled in this state on any given day.

(2) A limited registration is valid for one year and may be renewed thereafter.

(3) A professional employer organization requesting limited registration under this subsection shall provide the ~~commissioner~~ *secretary* with such information and documentation as required by the ~~commissioner~~ *secretary* to show that the professional employer organization qualifies for a limited registration.

(4) The provisions of K.S.A. 44-1706, and amendments thereto, shall not apply to applicants for limited registration.

(h) At the time of initial registration, the applicant shall submit the most recent audit of the applicant or such applicant's parent holding company. The most recent audit shall not be older than 13 months. Thereafter, a professional employer organization or professional employer group shall file on an annual basis, within 120 days after the end of the professional employer organization's or parent holding company's fiscal year, a succeeding audit and renewal registration application. An applicant may apply to the ~~commissioner~~ *secretary* for an extension of time to submit such audit, but any such request shall be accompanied by a letter from the auditor stating the reasons for the delay and the anticipated audit completion date. For the initial application, if the closing date of the audited financial statements required by this section is older than three months from the date of the application, the application also shall include updated, unaudited financial statements for the most recent quarter. The financial statement shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which such accountant is located and shall be without qualification as to the going concern status of the professional employer organization. A professional employer group may submit combined or consolidated audited financial statements to meet the requirements of this section. A professional employer organization that has not had sufficient operating history to have audited financial statements based upon at least 12 months of operating history shall meet the financial capacity requirements of subsection (f) and present financial statements reviewed by a certified public accountant.

(i) The ~~department~~ *secretary* shall maintain a list of professional employer organizations registered under this section, and such list shall be readily available to the public by electronic or other means.

(j) The ~~commissioner~~ *secretary*, to the extent feasible, shall permit the acceptance of electronic filings, including *initial registration and renewal* applications, documents, reports and other filings required by the ~~commissioner~~ *secretary* under this section. The ~~commissioner~~ *secretary* may provide for the acceptance of electronic filings and ~~other assurance documents~~ *registration information for initial registration and renewal applications, reports and other assurance documents* by an independent and qualified ~~entity~~ *assurance organization* approved by the ~~commissioner~~ *secretary* that provides satisfactory assurance of compliance acceptable to the ~~commissioner~~ *secretary* consistent with, or in lieu of, the requirements of this section and K.S.A. 44-1706, and amendments thereto. The ~~commissioner~~ *secretary* shall permit a professional employer organization to authorize such ~~entity~~ *assurance organization* approved by the ~~commissioner~~ *secretary* to act on the professional employer organization's behalf, including electronic filings *and provisions* of *registration* information *for*

initial registration and renewal applications and payment of registration fees in complying with the registration requirements of ~~this section~~ *subsections (c) through (h)*. Use of such an approved ~~entity~~ *assurance organization* shall be optional and not mandatory for a registrant. Nothing in this subsection shall limit or change the ~~commissioner's~~ *secretary's* authority to register or terminate registration of a professional employer organization or to investigate or enforce any provision of K.S.A. 44-1701 through 44-1711, and amendments thereto.

Sec. 3. On January 1, 2025, K.S.A. 44-1705 is hereby amended to read as follows: 44-1705. (a) Upon filing an initial application for registration, a professional employer organization shall pay a fee in an amount not to exceed $1,000.

(b) Upon filing a renewal application for registration, a professional employer organization shall pay a fee in an amount not to exceed $500.

(c) Upon filing an initial or a renewal application for limited registration, a professional employer organization shall pay a fee in an amount not to exceed $500.

(d) Upon filing an initial or a renewal application for registration, a professional employer group shall pay a fee in an amount determined by the ~~commissioner~~ *secretary* and adopted by rules and regulations.

(e) The ~~commissioner~~ *secretary* shall adopt rules and regulations establishing the fees to be charged pursuant to this section in such amounts as deemed reasonably necessary by the ~~commissioner~~ *secretary* for the administration of the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto, subject to the limitations on fee amounts set forth in subsections (a), (b) and (c).

(f) There is hereby created the professional employer organization fee fund. The ~~commissioner~~ *secretary* shall remit all moneys received from fees or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the professional employer organization fee fund. All expenditures from the professional employer organization fee fund shall be for the purposes of the administration of the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the ~~commissioner~~ *secretary*, or the ~~commissioner's~~ *secretary's* designee.

Sec. 4. On January 1, 2025, K.S.A. 44-1706 is hereby amended to read as follows: 44-1706. Except as provided by ~~subsections (g) and (j) of~~ K.S.A. 44-1704*(g) and (j)*, and amendments thereto, each professional employer organization, or collectively each professional employer group shall either:

(a) Maintain positive working capital upon registration as reflected in the financial statements submitted to the ~~commissioner~~ *secretary* with the initial registration application and each renewal application; or

(b) for a professional employer organization or professional employer group that does not have sufficient positive working capital as required in subsection (a), submit a bond, irrevocable letter of credit or securities with a minimum market value in an amount equal to the sum of the amount that would be necessary for such professional employer organization or professional employer group to comply with subsection (a) plus $100,000 to the ~~commissioner~~ *secretary* at such time as the professional employer organization or professional employer group does not have sufficient working capital. Such bond shall be held by a depository designated by the ~~commissioner~~ *secretary* securing payment by the professional employer organization of all taxes, wages, benefits or other entitlement due to or with respect to covered employees, if the professional employer organization does not make such payments when due.

Sec. 5. K.S.A. 44-1708 is hereby amended to read as follows: 44-1708. A client and a professional employer organization shall each be deemed an employer under the laws of this state for purposes of sponsoring retirement and employee welfare benefit plans for its covered employees. *A fully-insured welfare benefit plan offered by a professional employer organization to its employees and covered employees shall be treated under the laws of this state as a single employer welfare benefit plan.*

Sec. 6. On January 1, 2025, K.S.A. 44-1709 is hereby amended to read as follows: 44-1709. (a) It shall be a violation of the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto:

(1) For a person to knowingly offer or provide professional employer services or use the names PEO, professional employer organization, staff leasing, employee leasing, administrative employer or other title representing professional employer services without registering in accordance with K.S.A. 44-1704, and amendments thereto;

(2) for a person to knowingly provide false or fraudulent information to the ~~commissioner~~ *secretary* in conjunction with any registration application, renewal or in any report required under the provisions of K.S.A. 44-1704 or 44-1706, and amendments thereto;

(3) for a person to knowingly make a material misrepresentation to the ~~commissioner~~ *secretary*, or other governmental agency to which such person is required to submit a report or information;

(4) for a professional employer organization or a controlling person of a professional employer organization to be convicted of a crime:

(A) That relates to the operation of a professional employer organization;

(B) that relates to the ability of the professional employer organization or a controlling person of a professional employer organization to operate a professional employer organization; or

(C) pursuant to 18 U.S.C. § 1033; or

(5) for a person to willfully violate any provision of K.S.A. 44-1701 through 44-1711, and amendments thereto, or any rule or regulation adopted by the ~~commissioner~~ *secretary* pursuant thereto.

(b) Upon a finding, and after notice and an opportunity for a hearing, that a professional employer organization, or a controlling person of a professional employer organization, or a person offering professional employer services has committed a violation under this section, the ~~commissioner~~ *secretary* may:

(1) Deny the application for registration;

(2) revoke, restrict or refuse to renew a registration;

(3) impose a civil fine in an amount not to exceed $10,000 for each material violation of the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto;

(4) place the registrant on probation for such period of time and subject to such conditions as the ~~commissioner~~ *secretary* shall specify; or

(5) issue an order to cease and desist those professional employer organization activities and services specified in such order.

(c) The provisions of this section shall be subject to the Kansas judicial review act.

Sec. 7. On January 1, 2025, K.S.A. 44-1710 is hereby amended to read as follows: 44-1710. The ~~commissioner~~ *secretary* is hereby authorized to and shall adopt such rules and regulations as the ~~commissioner~~ *secretary* deems necessary to implement and enforce the provisions of K.S.A. 44-1701 through 44-1711, and amendments thereto.

Sec. 8. K.S.A. 44-1708 is hereby repealed.

Sec. 9. On January 1, 2025, K.S.A. 44-1702, 44-1704, 44-1705, 44-1706, 44-1709 and 44-1710 are hereby repealed.

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

Approved April 15, 2024.

CHAPTER 51

HOUSE BILL No. 2665

AN ACT concerning motor vehicles; relating to violations of the uniform act regulating traffic on highways; increasing criminal penalties for a driver who leaves the scene of a vehicular accident when the accident results in the death of any person or more than one person, if the driver knew or reasonably should have known that such accident resulted in injury or death; amending K.S.A. 8-1602 and repealing the existing section.

WHEREAS, The amendments made to K.S.A. 8-1602 by this act shall be known as Levi's law.

Now, therefore:

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

Section 1. K.S.A. 8-1602 is hereby amended to read as follows: 8-1602. (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of K.S.A. 8-1604, and amendments thereto.

(b) ~~A person who violates~~ *Violation of* subsection (a) when an accident results in:

(1) Total property damages of less than $1,000 ~~shall be guilty of~~ *is* a misdemeanor and, upon conviction, shall be punished as provided in K.S.A. 8-2116, and amendments thereto.

(2) Injury to any person or total property damages ~~in excess~~ of $1,000 or more ~~shall be guilty of~~ *is* a class A person misdemeanor.

(3) Great bodily harm to any person ~~shall be guilty of~~ *is* a severity level 8, person felony.

(4) The death of any person ~~shall be guilty of~~ *is* a severity level 6, person felony, except as provided in ~~subsection (a)(5)~~ *subsections (b)(5) and (b)(6)*.

(5) The death of any person, if the ~~person~~ *driver* knew or reasonably should have known that such accident resulted in injury or death, ~~shall be a level 5~~ *is a severity level 4*, person felony, *except as provided in subsection (b)(6)*.

(6) The death of more than one person, if the driver knew or reasonably should have known that such accident resulted in injury or death, is a severity level 3, person felony.

(c) The director may revoke the license or permit to drive or any nonresident operating privilege of any person ~~so~~ convicted *of a violation of this section*.

(d) The driver shall comply with the provisions of K.S.A. 8-15,107, and amendments thereto.

Sec. 2. K.S.A. 8-1602 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, 2024.

CHAPTER 52

HOUSE BILL No. 2675

AN ACT concerning children and minors; enacting the uniform nonparent visitation act; removing provisions related to grandparent and stepparent visitation rights; repealing K.S.A. 23-3301, 23-3302, 23-3303 and 23-3304.

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

Section 1. Sections 1 through 20, and amendments thereto, shall be known and may be cited as the uniform nonparent visitation act.

Sec. 2. As used in this act:

(a) "Child" means an unemancipated individual who is less than 18 years of age.

(b) "Compensation" means wages or other remuneration paid in exchange for care of a child. "Compensation" does not include reimbursement of expenses for care of the child, including payment for food, clothing and medical expenses.

(c) "Consistent caretaker" means a nonparent who meets the requirements of section 4(b), and amendments thereto.

(d) "Custody" means physical custody, legal custody or both.

(e) "Harm to a child" means significant adverse effect on a child's physical, emotional or psychological well-being.

(f) "Legal custody" means the right to make significant decisions regarding a child, including decisions regarding a child's education, healthcare and scheduled activity.

(g) "Nonparent" means an individual, other than a parent or person acting as a parent of a child. "Nonparent" includes a grandparent, sibling or stepparent of a child.

(h) "Parent" means an individual recognized as a parent under the laws of Kansas.

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

(j) "Person acting as a parent" means a person, other than a parent, who:

(1) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately preceding the commencement of a child custody proceeding; and

(2) has been awarded legal custody by a court or claims a right to legal custody under the laws of Kansas.

(k) "Physical custody" means living with a child and exercising day-to-day care of the child.

(l) "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.

(m) "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. "State" includes a federally recognized Indian tribe.

(n) "Substantial relationship with the child" means a relationship between a nonparent and child that meets the requirements of section 4(c), and amendments thereto.

(o) "Visitation" means the right to spend time with a child who is living with another person and may include an overnight stay.

Sec. 3. (a) Except as provided in subsection (b), this act applies to a proceeding in which a nonparent seeks visitation, including proceedings in which the child has a guardian pursuant to article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, or a permanent custodian pursuant to article 22 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto.

(b) This act does not apply to a proceeding:

(1) Between nonparents, unless a parent or person acting as a parent is a party to the proceeding;

(2) pertaining to visitation with an Indian child as defined in the Indian child welfare act of 1978, 25 U.S.C. § 1903(4), to the extent the proceeding is governed by the Indian child welfare act of 1978, 25 U.S.C. §§ 1901 through 1963; and

(3) pertaining to a child who is the subject of an ongoing proceeding under article 22 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, or a substantially similar proceeding in another state.

(c) A nonparent shall not maintain a proceeding under this act for visitation with a child solely because the nonparent served as a foster parent of the child.

(d) An individual whose parental rights concerning a child have been terminated shall not maintain a proceeding under this act concerning such child.

(e) Relief under this act is not available during the period of a visitation order entered under K.S.A. 23-3217, and amendments thereto, or other order related to visitation with a child of a deployed parent or person acting as a parent. A visitation order entered before a parent or person acting as a parent was deployed remains in effect unless modified by the court.

Sec. 4. (a) A court may order visitation to a nonparent only if the nonparent proves that:

(1) The denial of visitation would result in harm to the child;

(2) the nonparent:

(A) Is or has been a consistent caretaker as described in subsection (b) within one year of the initiation of the action; or

(B) has a substantial relationship with the child as described in subsection (c); and

(3) an order of visitation to the nonparent is in the best interest of the child applying the factors in section 11, and amendments thereto.

(b) A nonparent is a consistent caretaker if the nonparent, without expectation of compensation:

(1) Lived with the child for not less than 12 months, unless the court finds good cause to accept a shorter period;

(2) regularly exercised care of the child;

(3) made day-to-day decisions regarding the child solely or in cooperation with an individual having physical custody of the child; and

(4) established a bonded and dependent relationship with the child with the express or implied consent of a parent or person acting as a parent of the child or without the consent of a parent or person acting as a parent if no parent or person acting as a parent has been able or willing to perform parenting functions.

(c) A nonparent has a substantial relationship with the child if:

(1) The nonparent:

(A) Is an individual with a familiar relationship with the child by blood or law; or

(B) formed a relationship with the child without expectation of compensation;

(2) a significant emotional bond exists between the nonparent and the child from the child's point of view; and

(3) the nonparent:

(A) Regularly exercised care of the child; and

(B) established a bonded and dependent relationship with the child with the express or implied consent of a parent or person acting as a parent of the child or without the consent of a parent or person acting as a parent if no parent or person acting as a parent has been able or willing to perform parenting functions.

Sec. 5. (a) In an initial proceeding under this act, there is a rebuttable presumption that a decision by a parent or person acting as a parent regarding a request for visitation by a nonparent is in the best interest of the child.

(b) Subject to section 13, and amendments thereto, a nonparent has the burden to rebut the presumption described in subsection (a) by clear and convincing evidence of the facts required by section 4(a), and amendments thereto. Proof of unfitness of a parent or person acting as a parent is not required to rebut the presumption described in subsection (a).

Sec. 6. A nonparent may commence a proceeding by filing a petition under section 7, and amendments thereto, in the court having jurisdiction to determine visitation under the uniform child custody jurisdiction and enforcement act, K.S.A. 23-37,101 through 23-37,405, and amendments thereto.

Sec. 7. (a) A nonparent shall verify a petition for vistitation under penalty of perjury and allege facts showing that the nonparent:

(1) Meets the requirements of a consistent caretaker of the child as described in section 4(b), and amendments thereto; or

(2) has a substantial relationship with the child as described in section 4(c), and amendments thereto, and denial of visitation would result in harm to the child.

(b) A petition under subsection (a) shall state the relief sought and allege specific facts showing:

(1) The duration and nature of the relationship between the nonparent and the child, including the period, if any, the nonparent lived with the child and the care provided;

(2) the content of any agreement between the parties to the proceeding regarding care of the child and custody of or visitation or other contact with the child;

(3) a description of any previous attempt by the nonparent to obtain visitation or other contact with the child;

(4) the extent to which the parent or person acting as a parent is willing to permit the nonparent to have visitation or other contact with the child;

(5) information about compensation or expectation of compensation provided to the nonparent in exchange for care of the child;

(6) information required to establish the jurisdiction of the court under the uniform child custody jurisdiction and enforcement act, K.S.A. 23-37,101 through 23-37,405, and amendments thereto;

(7) the reason the requested visitation is in the best interest of the child, applying the factors in section 11, and amendments thereto; and

(8) if the nonparent alleges a substantial relationship with the child, the reason denial of visitation to the nonparent would result in harm to the child.

(c) If an agreement described in subsection (b)(2) is in a record, the nonparent shall attach a copy of the agreement to the petition.

Sec. 8. (a) Based on the petition described in section 7, and amendments thereto, the court shall determine whether the nonparent has pleaded a prima facie case that:

(1) A denial of visitation would result in harm to the child;

(2) the nonparent:

(A) Is or has been a consistent caretaker, as described in section 4(b), and amendments thereto, during the year immediately preceding filing of the action; or

(B) has a substantial relationship with the child, as described in section 4(c), and amendments thereto; and

(3) an order of visitation to the nonparent is in the best interest of the child applying the factors in section 11, and amendments thereto.

(b) If the court determines that the nonparent has not pleaded a prima facie case, the court shall dismiss the petition.

Sec. 9. On commencement of a proceeding under the act, the nonparent shall give notice as described in article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, to each:

(a) Parent or person acting as a parent of the child who is the subject of the proceeding;

(b) person having legal custody, residency or parenting time with the child;

(c) individual having court-ordered visitation with the child; and

(d) attorney, guardian ad litem or similar representative appointed for the child.

Sec. 10. In the manner and to the extent authorized by chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the court may do one or more of the following:

(a) Appoint a guardian ad litem for the child;

(b) interview the child if such child is of sufficient age and maturity;

(c) require the parties to participate in mediation or another form of alternative dispute resolution, except that a party who has been the victim of a domestic violence offense, as defined in K.S.A. 21-5111, and amendments thereto, a sex offense described in article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, stalking as described in K.S.A. 21-5427, and amendments thereto, or other offense committed by another party to the proceeding shall not be required to participate unless reasonable procedures are in place to protect the party from a risk of harm, harassment or intimidation; or

(d) order an evaluation, investigation or other assessment of the child's circumstances and the effect on the child of ordering or denying the requested visitation or modifying a visitation order.

Sec. 11. (a) When determining whether an order of visitation to a nonparent is in the best interest of a child, the court shall consider:

(1) The nature and extent of the relationship between the child and the parent or person acting as a parent;

(2) the nature and extent of the relationship between the child and the nonparent;

(3) past or present conduct by a party or individual living with a party that poses a risk to the physical, emotional or psychological well-being of the child;

(4) the likely impact of the requested order on the relationship between the child and the parent or person acting as a parent;

(5) the applicable factors in K.S.A. 23-3203, and amendments thereto; and

(6) any other factor affecting the best interest of the child.

(b) The court may consider the views of the child, taking into account the age and maturity of the child.

Sec. 12. (a) The court shall presume that ordering visitation to a nonparent is not in the best interest of the child if the court finds that the nonparent or an individual living with the nonparent has:

(1) Committed abuse of a child as described in K.S.A. 21-5602, and amendments thereto;

(2) committed abandonment of a child or aggravated abandonment of a child as described in K.S.A. 21-5605, and amendments thereto;

(3) committed a domestic violence offense as defined in K.S.A. 21-5111, and amendments thereto;

(4) committed a sex offense described in article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(5) committed stalking as described in K.S.A. 21-5427, and amendments thereto;

(6) been subject to registration requirements under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto; or

(7) committed an offense or been subjected to a registration requirement in another state that is comparable to those described in paragraphs (1) through (6).

(b) A finding that conduct described in subsection (a) occurred shall be based on:

(1) Evidence of a conviction in a criminal proceeding or final judgment in a civil proceeding; or

(2) proof by a preponderance of the evidence.

(c) A nonparent may rebut the presumption described in subsection (a) by proving by clear and convincing evidence that ordering visitation to the nonparent will not endanger the health, safety or welfare of the child and is in the best interest of the child.

Sec. 13. (a) On verified motion subject to subsection (c), the court may modify a final visitation order on a showing by a preponderance of the evidence that:

(1) A material change in circumstance has occurred relevant to the visitation with the child; and

(2) modification is in the best interest of the child.

(b) Except as provided in subsection (c), if a nonparent has rebutted the presumption described in section 5, and amendments thereto, in an initial proceeding, the presumption remains rebutted.

(c) On agreement of the parties, the court may modify a visitation order unless the court finds that the agreement is not in the best interest of the child.

Sec. 14. When issuing a final order of visitation, the court shall make findings of fact and conclusions of law as required by K.S.A. 60-252, and amendments thereto, in support of its decision or, if the petition is dismissed pursuant to section 8, and amendments thereto, or a motion for modification is denied pursuant to section 13, and amendments thereto, state the reasons for the dismissal or denial.

Sec. 15. (a) (1) A nonparent who is entitled to visitation with a child under this act shall give written notice to the parent or person acting as a parent if the nonparent:

(A) Is subject to the registration requirements of the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, or any comparable registration requirements of another jurisdiction;

(B) has been convicted of abuse of a child as described in K.S.A. 21-5602, and amendments thereto; or

(C) is residing with an individual who is known by the nonparent to be subject to the registration requirements or convicted as described in subparagraphs (A) or (B).

(2) The notice described in this subsection shall be sent by restricted mail, return receipt requested, to the last known address of the parent or person acting as a parent within 14 days following knowledge of an event described in paragraph (1).

(b) Failure to give notice as required in this section is an indirect civil contempt punishable as provided by law. The court may order the nonparent required to give notice to pay reasonable attorney fees and any other expenses incurred by the parent or person acting as a parent as a result of the failure to give notice.

(c) An event described in subsection (a)(1) may be considered a material change of circumstances that justifies modification of a prior order of visitation.

Sec. 16. (a) The expense of facilitating visitation, including the expense of transportation, shall be paid by the nonparent unless the court determines justice and equity require otherwise.

(b) The nonparent shall pay for services ordered under section 10, and amendments thereto, unless the court determines that justice and equity require otherwise.

(c) Costs and reasonable attorney fees shall be awarded to the parent or person acting as a parent unless the court determines that justice and equity require otherwise.

Sec. 17. 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.

Sec. 18. This act modifies, limits or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede 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).

Sec. 19. This act applies to a proceeding:

(a) Commenced before July 1, 2024, in which a final order has not been entered; and

(b) commenced on or after July 1, 2024.

Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions of applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

Sec. 21. K.S.A. 23-3301, 23-3302, 23-3303 and 23-3304 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 2024.

CHAPTER 53

HOUSE BILL No. 2690

AN ACT concerning emergency communication services; establishing the state 911 board; abolishing the 911 coordinating council; transferring the powers, duties and functions of the 911 coordinating council to the state 911 board; authorizing the board to appoint an executive director and other employees to carry out the powers, duties and functions of the board; abolishing the 911 operations fund, the 911 state grant fund and the 911 state fund and establishing the state 911 operations fund, the state 911 grant fund and the state 911 fund in the state treasury; authorizing governing bodies of cities or counties to contract for the provision of 911 PSAP services with another governing body of a PSAP; increasing the amount of 911 fee distributions to PSAPs and governing bodies; amending K.S.A. 12-5362, 12-5363, 12-5364, 12-5365, 12-5366, 12-5367, 12-5368, 12-5368, as amended by section 16 of this act, 12-5368, as amended by section 17 of this act, 12-5369, 12-5370, 12-5371, 12-5372, 12-5374, 12-5374, as amended by section 23 of this act, 12-5374, as amended by section 24 of this act, 12-5375, 12-5375, as amended by section 26 of this act, 12-5375, as amended by section 27 of this act, and 12-5377 and repealing the existing sections; also repealing K.S.A. 12-5364, as amended by section 12 of this act, 12-5378 and 12-5379.

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

New Section 1. (a) There is hereby established the state 911 board. The board shall consist of 19 voting members and shall include individuals with technical expertise regarding 911 systems, internet technology and GIS technology.

(1) The following 15 voting members shall be appointed by the governor:

(A) Two members representing information technology personnel from governmental units;

(B) one member representing the Kansas sheriff's association;

(C) one member representing the Kansas association of chiefs of police;

(D) one member representing the Kansas state association of fire chiefs;

(E) one member recommended by the adjutant general;

(F) one member recommended by the Kansas board of emergency medical services;

(G) one member recommended by the Kansas commission for the deaf and hard of hearing;

(H) two members representing PSAPs located in counties having a population less than 75,000, at least one of which shall be an administrator of a PSAP or have extensive prior 911 experience in Kansas;

(I) two members representing PSAPs located in counties having a population of 75,000 or more, at least one of which shall be an administrator of a PSAP or have extensive prior 911 experience in Kansas;

(J) one member representing the Kansas chapter of the association of public safety communications officials;

(K) one member recommended by the league of Kansas municipalities; and

(L) one member recommended by the Kansas association of counties.

(2) The following four voting members shall be appointed as follows:

(A) One member of the Kansas house of representatives appointed by the speaker of the house;

(B) one member of the Kansas house of representatives appointed by the minority leader of the house;

(C) one member of the Kansas senate appointed by the president of the senate; and

(D) one member of the Kansas senate appointed by the minority leader of the senate.

(b) The state 911 board shall include the following nine nonvoting members to be appointed by the governor:

(1) One member representing rural telecommunications companies recommended by the communications coalition of Kansas;

(2) one member representing incumbent local exchange carriers with over 50,000 access lines;

(3) one member representing large wireless providers;

(4) one member representing VoIP providers;

(5) one member recommended by the Kansas geographic information systems policy board;

(6) one member recommended by the Kansas office of information technology services;

(7) one member recommended by the Mid-America regional council who shall be a Kansas resident; and

(8) two members representing non-traditional PSAPs, one of whom shall be a representative of tribal government.

(c) (1) The governor shall select the chairperson of the state 911 board. The chairperson shall serve as chairperson at the pleasure of the governor and shall have extensive prior 911 experience in Kansas. The chairperson shall serve subject to the direction of the board and ensure that policies adopted by the board are carried out.

(2) The chairperson of the board or the chairperson's designee may sign any certifications required for federal grants pursuant to 47 C.F.R part 400.

(d) (1) Except as otherwise provided in this subsection, the terms of office for members of the board shall commence upon appointment. Each member shall serve a term of three years and until a successor has been appointed pursuant to this section. No voting member shall serve longer than two successive three-year terms, except that any person appointed to fulfill an unexpired term of a voting member may finish the term of the predecessor and such appointment shall not preclude the person from

subsequently serving two successive three-year terms. This paragraph shall not apply to the members appointed pursuant to subsection (a)(2).

(2) On July 1, 2025, each member appointed to and currently serving a term on the 911 coordinating council pursuant to K.S.A. 12-5364, prior to it repeal, shall be deemed to be appointed to and a member of the state 911 board. The initial term of each such member shall expire at the time such member's original term would have expired as a member of the 911 coordinating council pursuant to K.S.A. 12-5364, prior to its repeal, and until a successor has been appointed pursuant to this section.

(3) The term of all members of the board shall expire on June 30 in the year that such member's term expires.

(e) Members of the board and other persons appointed to subcommittees by the board may receive reimbursement for meals and travel expenses, but shall serve without other compensation with the exception of legislative members, who shall receive compensation pursuant to K.S.A. 75-3212, and amendments thereto.

(f) The provisions of this section shall take effect and be in force on and after July 1, 2025.

New Sec. 2. (a) The state 911 board shall:

(1) Coordinate E-911 services and next generation 911 services in the state;

(2) implement statewide 911 communications planning;

(3) monitor the delivery of 911communications services in the state;

(4) develop strategies for future enhancements to the 911 system;

(5) administer and oversee grants to PSAPs;

(6) develop technology standards;

(7) establish minimum training requirements for PSAP personnel, GIS technicians and information technology technicians with respect to the statewide NG911 call handling system technology to ensure public safety across Kansas;

(8) employ a full-time executive director; and

(9) make an annual report of all expenditures from the 911 fees imposed pursuant to K.S.A. 12-5369 and 12-5371, and amendments thereto, to the house of representatives standing committee on energy, utilities and telecommunications and the senate standing committee on utilities or their successor committees.

(b) The state 911 board may:

(1) Contract with any person to assist in the performance of the powers, duties and functions of the board;

(2) reimburse state agencies or independent contractors for expenses incurred in carrying out the powers, duties and functions of the board;

(3) apply for grants under the federal 911 grant program;

(4) recommend training for general PSAP operations;

(5) enter into and support agreements for the interstate and interlocal interconnection of ESInet service; and

(6) adopt rules and regulations as the board deems necessary for the implementation and administration of the Kansas 911 act, except that the board shall not establish a mandatory certification program for PSAP operations or PSAP emergency communications personnel.

(c) The state 911 board may impose a civil penalty upon any provider that fails to collect the 911 fees pursuant to K.S.A. 12-5369, and amendments thereto, or remit such fees pursuant to K.S.A. 12-5370, and amendments thereto. Such written order shall state the violation, the penalty to be imposed and the right of the provider to appeal and request a hearing before the board. Any such provider may, within 15 days after service of the order, make a written request to the board for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action of the board to impose a penalty shall be subject to review in accordance with the Kansas judicial review act. Any civil penalty recovered pursuant to this subsection shall be deposited in the 911 state grant fund.

(d) (1) The executive director of the state 911 board shall:

(A) Be the administrative officer of the board;

(B) be in the unclassified service of the Kansas civil service act; and

(C) receive an annual salary set by the board.

(2) The executive director may hire, subject to the approval of the board, assistant directors and employees as deemed necessary by the board. Any such assistant directors or employees shall be in the unclassified service of the Kansas civil service act.

(e) The provisions of this section shall take effect and be in force on and after July 1, 2025.

New Sec. 3. (a) On July 1, 2025, the 911 coordinating council established pursuant to K.S.A. 12-5364, prior to its repeal, is hereby abolished and the powers, duties and functions vested in and imposed upon the 911 coordinating council are hereby transferred to, vested in and imposed upon the state 911 board.

(b) On July 1, 2025, all employees of the 911 coordinating council who, immediately prior to such date, were engaged in the performance of the powers, duties or functions that are transferred pursuant to this act, and who, in the opinion of the board, are necessary to perform the powers, duties and functions of the board, shall be transferred to and shall become employees of the board. Any such employee shall retain all retirement benefits and all rights of civil service that had accrued to or vested in such employee. The service of each such employee so transferred shall be deemed to have been continuous.

(c) The state 911 board shall succeed to all property and records of the 911 coordinating council. Any conflict as to the proper disposition of property or records arising under this section shall be determined by the governor and the decision of the governor shall be final.

(d) Whenever the 911 coordinating council, or words of like effect, is referred to or designated by any statute, rule or regulation, contract or other document, such reference or designation shall be deemed to apply to state 911 board.

(e) All rules and regulations of the 911 coordinating council in existence on July 1, 2025, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the state 911 board until amended, revoked or nullified pursuant to law.

(f) The provisions of this section shall take effect and be in force on and after July 1, 2025.

New Sec. 4 (a) (1) Every provider shall submit contact information for the provider to the state 911 board. Any provider that has not previously provided wireless telecommunications service in this state shall submit contact information for the provider to the board within three months of first offering wireless telecommunications services in this state.

(2) A provider of wireless telecommunications service shall:

(A) Receive prior approval from each PSAP within the provider's service area before directing emergency calls to such PSAP; and

(B) establish the unique emergency telephone number "911" across the state.

(3) Nothing in this act shall be construed to limit the ability of a provider from recovering directly from the provider's customers the costs associated with designing, developing, deploying and maintaining 911 service and the cost of collection and administration of the fees imposed by K.S.A. 12-5369, and amendments thereto, whether such costs are itemized on the customer's bill as a surcharge or by any other lawful method.

(b) (1) Each PSAP and governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services shall file an annual report with the state 911 board by March 1 of each year demonstrating how such PSAP or governing body has spent the moneys earned from the 911 fees during the preceding calendar year. The board shall designate the content and form of such report and may require additional associated documentation that shall be included.

(2) If a PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services fails to file and finalize an annual report, the board shall provide notice of such failure to the PSAP, the governing body of such PSAP and, if applicable, the governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services. If such PSAP or governing body fails

to file or finalize an annual report within 60 days of receiving such notice, the board shall withhold 10% of each subsequent distribution of 911 fees to such PSAP or governing body pursuant to K.S.A. 12-5374, and amendments thereto. The board shall not discontinue such withholding until the PSAP or governing body submits a report in compliance with this section.

(c) (1) If the state 911 board finds that the GIS data for a PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services is inaccurate, the board shall give written notice to the governing body that oversees the PSAP, the PSAP and, if applicable, the governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services of such finding. If the board does not receive an acceptable proposal for the PSAP or governing body to bring the GIS data into compliance within 60 days following such notice, the board may contract with a third party to review and update the GIS data.

(2) If the board finds that the GIS data for a PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services has not been updated for one year or more, the board shall give written notice to the governing body that oversees the PSAP, the PSAP and, if applicable, the governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services of such finding. Such PSAP or governing body may provide an attestation that the GIS data has been reviewed and remains accurate. If the board receives such attestation and has information that the data may not be accurate, the board shall provide a written notice to the PSAP or governing body that describes the areas the board believes to be inaccurate. The PSAP or governing body shall have 30 days following receipt of such written notice to submit updated GIS data. If the updated GIS data is not received prior to such deadline, the board may contract with a third party to review and update the GIS data and may assess any costs incurred in updating the GIS data upon the governing body that oversees the PSAP or the governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services.

(d) The provisions of this section shall take effect and be in force on and after July 1, 2025.

New Sec. 5. (a) There is hereby created in the state treasury the state 911 operations fund. All moneys received pursuant to K.S.A. 12-5368, 12-5372 and 12-5374, and amendments thereto, for purposes of such fund shall be deposited into the state 911 operations fund. All expenditures from the state 911 operations fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state 911 board or the chairperson's designee.

(b) The state 911 operations fund shall be used only for the following purposes:

(1) Administrative and operational expenses of the state 911 board, including salaries of persons employed by the board;

(2) payment and expenses incurred pursuant to contracts entered into by the board for the performance of the powers, duties and functions of the board;

(3) payment to state agencies or independent contractors for expenses incurred in carrying out the powers, duties and functions of the board; and

(4) development, deployment, implementation and maintenance of the statewide next generation 911 system.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state 911 operations fund interest earnings based on:

(1) The average daily balance of moneys in the state 911 operations fund for the preceding month; and

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

(d) The state 911 operations fund shall be used for the purposes set forth in this act and for no other governmental purposes. Moneys in the state 911 operations fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(e) On January 1, 2026:

(1) The LCPA shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, the balance of all moneys in the 911 operations fund established pursuant to K.S.A. 12-5368, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state 911 operations fund.

(2) All liabilities of the 911 operations fund are hereby transferred to and imposed on the state 911 operations fund.

(3) The 911 operations fund established by the LCPA pursuant to K.S.A. 12-5368, and amendments thereto, is hereby abolished.

(f) The provisions of this section shall take effect and be in force on and after January 1, 2026.

New Sec. 6. (a) There is hereby created in the state treasury the state 911 grant fund. All moneys received pursuant to K.S.A. 12-5368 and 12-5374, and amendments thereto, for purposes of such fund shall be deposited into the state 911 grant fund. All expenditures from the state 911 grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state 911 board or the chairperson's designee.

(b) The state 911 grant fund shall be used only for the following purposes:

(1) Providing state grants for projects involving the development and implementation of next generation 911 services;

(2) provide grants to PSAPs based on demonstrated need; and

(3) costs associated with PSAP consolidation or cost-sharing projects.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state 911 grant fund interest earnings based on:

(1) The average daily balance of moneys in the state 911 grant fund for the preceding month; and

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

(d) The state 911 grant fund shall be used for the purposes set forth in this act and for no other governmental purposes. Moneys in the state 911 grant fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(e) On January 1, 2026:

(1) The LCPA shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, the balance of all moneys in the 911 state grant fund established pursuant to K.S.A. 12-5368, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state 911 grant fund.

(2) All liabilities of the 911 state grant fund are hereby transferred to and imposed on the state 911 grant fund.

(3) The 911 state grant fund established by the LCPA pursuant to K.S.A. 12-5368, and amendments thereto, is hereby abolished.

(f) The provisions of this section shall take effect and be in force on and after January 1, 2026.

New Sec. 7. (a) There is hereby created in the state treasury the state 911 fund. All moneys received pursuant to K.S.A. 12-5368 and 12-5374, and amendments thereto, for purposes of such fund shall be deposited into the state 911 fund. All expenditures from the state 911 fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the state 911 board or the chairperson's designee.

(b) The state 911 fund shall be used for direct distributions of moneys pursuant to K.S.A. 12-5374, and amendments thereto.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state 911 fund interest earnings based on:

(1) The average daily balance of moneys in the state 911 fund for the preceding month; and

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

(d) The state 911 fund shall be used for the purposes set forth in this act and for no other governmental purposes. Moneys in the state 911 fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(e) On January 1, 2026:

(1) The LCPA shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, the balance of all moneys in the 911 state fund established pursuant to K.S.A. 12-5368, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state 911 fund.

(2) All liabilities of the 911 state fund are hereby transferred to and imposed on the state 911 fund.

(3) The 911 state fund established by the LCPA pursuant to K.S.A. 12-5368, and amendments thereto, is hereby abolished.

(f) The provisions of this section shall take effect and be in force on and after January 1, 2026.

New Sec. 8. (a) On or before the 15th day of each month, the state 911 board shall require the LCPA to provide a monthly report that accounts for every transaction that has occurred during the previous month in the 911 state fund, 911 state grant fund and the 911 operations fund established outside the state treasury pursuant to K.S.A. 12-5368, and amendments thereto. Such report shall include line item amounts and details for every transaction, including debits, credits, transfers, fees assessed, interest earned, change in ownership, change in authorized signatories or any other event that may have altered the structure or balance of the account. The LCPA shall submit each monthly report to the secretary of administration and to the director of legislative research. On or before January 31, 2026, the state 911 board shall prepare and submit to the legislature a report that summarizes the transactions reported in such monthly reports and shall confirm that the accounts have been closed and all assets have been transferred to the state treasury in accordance with the requirements of sections 5 through 7, and amendments thereto.

(b) The provisions of this section shall take effect and be in force on and after July 1, 2025.

(c) This section shall expire on February 1, 2026.

New Sec. 9. (a) The 911 coordinating council may take any actions necessary to prepare for a seamless and orderly transition of the powers, duties and functions of the 911 coordinating council to the state 911

board established pursuant to section 1, and amendments thereto. Such actions may include, but shall not be limited to:

(1) Employing one or more individuals who the council deems necessary to assist with the transition, including the employment of an individual who shall assume the role of executive director of the state 911 board upon the establishment of the board pursuant to this act; and

(2) preparing a budget that reflects the establishment of the state 911 board and the state 911 operations fund within the state treasury pursuant to this act.

(b) Any persons employed pursuant to this section shall be in the unclassified service and receive compensation fixed by the council.

(c) Any expenses incurred for the employment of individuals pursuant to this section shall be considered administrative expenses of the council pursuant to K.S.A. 12-5368, and amendments thereto, and the council shall have authority to use any moneys held in or transferred to the 911 operations fund to provide for the employment and compensation authorized pursuant to this section.

Sec. 10. On and after July 1, 2025, K.S.A. 12-5362 is hereby amended to read as follows: 12-5362. K.S.A. 12-5362 through 12-5381, and amendments thereto, *and sections 1 through 9, and amendments thereto,* shall be known and may be cited as the Kansas 911 act.

Sec. 11. On and after July 1, 2025, K.S.A. 12-5363 is hereby amended to read as follows: 12-5363. As used in the Kansas 911 act:

(a) *"Board" means the state 911 board.*

(b) "Consumer" means a person who purchases prepaid wireless service in a retail transaction.

~~(b)~~*(c)* "Department" means the Kansas department of revenue.

~~(c)~~*(d)* "Enhanced 911 service" or "E-911 service" means an emergency telephone service that generally may provide, but is not limited to, selective routing, automatic number identification and automatic location identification features.

~~(d)~~*(e)* "Exchange telecommunications service" means the service that provides local telecommunications exchange access to a service user.

~~(e)~~*(f)* "GIS" means a geographic information system for capturing, storing, displaying, analyzing and managing data and associated attributes that are spatially referenced.

~~(f)~~*(g)* "GIS data" means the geometry and associated attributes packaged in a geodatabase that defines the roads, address points and boundaries within a PSAP's jurisdiction.

~~(g)~~*(h)* "Governing body" means the board of county commissioners of a county or the governing body of a city.

~~(h)~~*(i)* "Local collection point administrator" or "LCPA" means the person designated by the ~~911 coordinating council~~ *board* to serve as the

local collection point administrator ~~to collect and distribute 911 fees, 911 operations fund moneys and 911 state grant fund moneys~~ *pursuant to K.S.A. 12-5367, and amendments thereto*.

~~(i)~~*(j)* "Multi-line telephone system" means a system comprised of common control units, telephones and control hardware and software providing local telephone service to multiple end-use customers that may include VoIP service and network and premises based systems such as centrex, private branch exchange and hybrid key telephone systems.

~~(j)~~*(k)* "Next generation 911" means 911 service that conforms with national emergency number association (NENA) i3 standards and enables PSAPs to receive Enhanced 911 service calls and emergency calls from Internet Protocol (IP) based technologies and applications that may include text messaging, image, video and data information from callers.

~~(k)~~*(l)* "Non-traditional PSAP" means a PSAP not operated by a city or county, including, but not limited to, PSAPs operated by universities, tribal governments or the state *or* federal government.

~~(l)~~*(m)* "Person" means any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, nonprofit organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy or any other legal entity.

~~(m)~~*(n)* "Prepaid wireless service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, ~~which service must be~~ *that is* paid for in advance and ~~is~~ sold in predetermined units or dollars of which the number declines with use in a known amount.

~~(n)~~*(o)* "Place of primary use" has the meaning provided in the mobile telecommunications act as defined by 4 U.S.C. § 116 et seq., as in effect on ~~the effective date of this act~~ *July 1, 2025*.

~~(o)~~*(p)* "Provider" means any person providing exchange telecommunications service, wireless telecommunications service, VoIP service or other service capable of contacting a PSAP. ~~A provider may also be~~ *"Provider" includes* a 911 system operator.

~~(p)~~*(q)* "PSAP" means a public safety answering point operated by a city or county.

~~(q)~~*(r)* "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale, not including the use, storage or consumption of such services.

~~(r)~~*(s)* "Seller" means a person who sells prepaid wireless service to another person.

~~(s)~~*(t)* "Service user" means any person who is provided exchange telecommunications service, wireless telecommunications service, VoIP ser-

vice, prepaid wireless service or any other service capable of contacting a PSAP.

~~(t)~~*(u)* "Subscriber account" means the 10-digit access number assigned to a service user by a provider for the purpose of billing a service user up to the maximum capacity of the simultaneous outbound calling capability of a multi-line telephone system or equivalent service.

~~(u)~~*(v)* "Subscriber radio equipment" means mobile and portable radio equipment installed in vehicles or carried by persons for voice communication with a radio system.

~~(v)~~*(w)* "VoIP service" means voice over internet protocol.

~~(w)~~*(x)* "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. § 20.3 as in effect on ~~the effective date of this act~~ *July 1, 2025*.

~~(x)~~*(y)* "911 call" means any electronic request for emergency response, presented by means of wireline, wireless, VoIP or telecommunications device for the deaf (TDD) technology, text message or any other technology by which a service user initiates an immediate information interchange or conversation with a PSAP.

~~(y)~~*(z)* "911 system operator" means any entity that accepts 911 calls from providers, processes those calls and presents those calls to the appropriate PSAP. ~~A "911 system operator" may also be a provider.~~

Sec. 12. On and after July 1, 2024, K.S.A. 12-5364 is hereby amended to read as follows: 12-5364. (a) (1) There is hereby created the 911 coordinating council which shall monitor the delivery of 911 services, develop strategies for future enhancements to the 911 system and distribute available grant funds to PSAPs *and governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services*. In as much as possible, the council shall include individuals with technical expertise regarding 911 systems, internet technology and GIS technology.

(2) *(A)* The 911 coordinating council shall consist of 13 voting members to be appointed by the governor:

(i) Two members representing information technology personnel from government units;

(ii) one member representing the Kansas sheriff's association;

(iii) one member representing the Kansas association of chiefs of police;

(iv) one member representing a fire chief;

(v) one member recommended by the adjutant general;

(vi) one member recommended by the Kansas emergency medical services board;

(vii) one member recommended by the Kansas commission for the deaf and hard of hearing;

(viii) two members representing PSAPs located in counties with less than 75,000 in population;

(ix) two members representing PSAPs located in counties with greater than 75,000 in population; and

(x) one member representing the Kansas chapter of the association of public safety communications officials.

(B) At least two of the members representing PSAPs shall be administrators of a PSAP or have extensive prior 911 experience in Kansas.

(3) Other voting members of the 911 coordinating council shall include:

(A) One member of the Kansas house of representatives as appointed by the speaker of the house;

(B) one member of the Kansas house of representatives as appointed by the minority leader of the house;

(C) one member of the Kansas senate as appointed by the senate president; and

(D) one member of the Kansas senate as appointed by the senate minority leader.

(4) The 911 coordinating council shall also include nonvoting members to be appointed by the governor:

(A) One member representing rural telecommunications companies recommended by the ~~Kansas rural independent telephone companies~~ *communications coalition of Kansas*;

(B) one member representing incumbent local exchange carriers with over 50,000 access lines;

(C) one member representing large wireless providers;

(D) one member representing VoIP providers;

(E) one member recommended by the league of Kansas municipalities;

(F) one member recommended by the Kansas association of counties;

(G) one member recommended by the Kansas geographic information systems policy board;

(H) one member recommended by the Kansas office of information technology services;

(I) one member, a Kansas resident, recommended by the Mid-America regional council; and

(J) two members representing non-traditional PSAPs, one of whom shall be a representative of tribal government.

(b) (1) ~~Except as provided in subsection (b)(2) and (b)(3), the terms of office for~~ Voting members of the 911 coordinating council shall ~~commence on the effective date of this act and shall be subject to reappointment every~~ *serve for a term of* three years. No voting member shall serve longer than two successive three-year terms. A voting member appointed as a replacement for another voting member may finish the term of the

predecessor and may serve two additional successive three-year terms. *This paragraph shall not apply to the members appointed pursuant to subsection (a)(3).*

(2) ~~The following members, whose terms began on the effective date of this act, shall serve initial terms as follows:~~

~~(A) One member representing information technology personnel from government units, one member recommended by the adjutant general, one member representing PSAPs located in counties with less than 75,000 in population and one member representing PSAPs located in counties with 75,000 or more in population shall serve a term of two years;~~

~~(B) one member representing information technology personnel from government units, one member recommended by the Kansas emergency medical services board, one member representing PSAPs located in counties with less than 75,000 in population and one member representing PSAPs without regard to size shall serve a term of three years; and~~

~~(C) one member representing a fire chief, one member recommended by the Kansas commission for the deaf and hard of hearing, one member representing the Kansas association of chiefs of police and one member representing PSAPs located in counties with 75,000 or more in population shall serve a term of four years.~~

~~(3) The initial term for one member representing the Kansas sheriff's association shall begin on July 1, 2014, and be for a period of three years.~~

~~(4)~~ The terms of members specified in this subsection shall expire on June 30 in the last year of such member's term.

(c) (1) The governor shall select the chair of the 911 coordinating council, who shall serve at the pleasure of the governor and have extensive prior 911 experience in Kansas.

(2) The chair shall serve as the coordinator of E-911 services and next generation 911 services in the state, implement statewide 911 planning, have the authority to sign all certifications required under 47 C.F.R. part 400 and administer the 911 federal grant fund and 911 state maintenance fund. The chair shall serve subject to the direction of the council and ensure that policies adopted by the council are carried out. The chair shall serve as the liaison between the council and the LCPA. The chair shall preside over all meetings of the council and assist the council in effectuating the provisions of this act.

(d) The 911 coordinating council, by an affirmative vote of nine voting members, shall select the local collection point administrator, pursuant to K.S.A. 12-5367, and amendments thereto, to collect 911 fees and to distribute such fees to PSAPs *and governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services* and to distribute 911 operations fund moneys and 911 state grant fund moneys as directed by the council. The council shall adopt rules and reg-

ulations for the terms of the contract with the LCPA. All contract terms and conditions shall satisfy all contract requirements as established by the secretary of administration. The council shall determine the compensation of the LCPA who shall provide the council with any staffing necessary in carrying out the business of the council or effectuating the provisions of this act. The moneys used to reimburse these expenses shall be paid from the 911 operations fund, pursuant to subsection (j).

(e) (1) The 911 coordinating council is hereby authorized to adopt rules and regulations necessary to effectuate the provisions of this act, including, but not limited to: (A) Creating a uniform reporting form designating how moneys, including 911 fees, have been spent by the PSAPs *and governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services*; (B) requiring service providers to notify the council pursuant to subsection (k); (C) establishing standards for coordinating and purchasing equipment; (D) recommending standards for general operations training of PSAP personnel; (E) establishing training standards and programs related to the technology and operations of the NG911 hosted solution; (F) establishing data standards, maintenance policies and data reporting requirements for GIS data; and (G) assessing civil penalties pursuant to subsection (m).

(2) The chair of the council shall work with the council to adopt rules and regulations necessary for the administration of this act, but the council shall not adopt any rules and regulations or impose any requirements that creates a mandatory certification program of PSAP operations or PSAP emergency communications personnel.

(f) If the 911 coordinating council finds that the GIS data for a PSAP *or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services* is inaccurate or has not been updated for one year or more, the council shall give written notice to the governing body that oversees the PSAP*, the PSAP and, if applicable, the governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services*. If, within 60 days of providing such notice, the council does not receive an acceptable proposal for the PSAP *or governing body* to bring the GIS data into compliance, the council may contract with a third party to review and update the GIS data. A PSAP *or governing body* with GIS data that has not been updated for one year or more may provide a certification attesting that the GIS data has been reviewed and remains accurate. If the council receives such certification and has information that the data may not be accurate, the council shall provide a written notice to the PSAP *or governing body* that describes the areas the council believes to be inaccurate and a deadline of 30 days for the PSAP *or governing body* to submit updated GIS data. If the updated GIS data is not received with-

in the deadline, the council may contract with a third party to review and update the GIS data. The council shall assess the governing body that oversees the PSAP *or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services* for any costs incurred in updating the GIS data.

(g) The council may, pursuant to rules and regulations, lower the 911 fee established pursuant to K.S.A. 12-5369, and amendments thereto, upon a finding based on information submitted on the uniform reporting forms, that moneys generated by such fee are in excess of the costs required to operate PSAPs in the state.

(h) The council may appoint subcommittees as necessary to administer grants, oversee collection and distribution of moneys by the LCPA, develop technology standards, develop training recommendations and other issues as deemed necessary by the council. Subcommittees, if appointed, shall include members of the council and other persons as needed.

(i) The council may reimburse independent contractors or state agencies for expenses incurred in carrying out the business of the council, including salaries, that are directly attributable to effectuating the provisions of this act. The moneys used to reimburse these expenses shall be paid from the 911 operations fund, pursuant to subsection (j).

(j) All expenses related to the council shall be paid from the 911 operations fund. No more than 2.0% of the total receipts from providers and the department received by the LCPA shall be used to pay for administrative expenses of the council. Members of the council and other persons appointed to subcommittees by the council may receive reimbursement for meals and travel expenses, but shall serve without other compensation with the exception of legislative members who shall receive compensation pursuant to K.S.A. 75-3212, and amendments thereto.

(k) Every provider shall submit contact information for the provider to the council. Any provider that has not previously provided wireless telecommunications service in this state shall submit contact information for the provider to the council within three months of first offering wireless telecommunications services in this state.

(l) (l) Each PSAP *and governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services* shall file an annual report with the council by March 1 of each year demonstrating how such PSAP *or governing body* has spent the moneys earned from the 911 fee during the preceding calendar year. The council shall designate the content and form of such report and any associated documentation that is required to finalize such report.

(2) If a PSAP *or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services* fails to file and finalize an annual report, the council shall provide notice of such failure

to the PSAP ~~and~~, the governing body of such PSAP *or governing body*. If such PSAP *or governing body* fails to file or finalize an annual report within 60 days of receiving such notice, 10% of each subsequent distribution of 911 fees to such PSAP *or governing body* pursuant to K.S.A. 12-5373, and amendments thereto, shall be withheld by the LCPA and only distributed to such PSAP *or governing body* once the report has been submitted.

(m) The council, upon a finding that a provider has violated any provision of this act, may impose a civil penalty. No civil penalty shall be imposed pursuant to this section except upon the written order of the council. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to a hearing before the council. Any such person may, within 15 days after service of the order, make a written request to the council for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(n) Any action of the council pursuant to subsection (m) is subject to review in accordance with the Kansas judicial review act.

(o) Any civil penalty recovered pursuant to this section shall be transferred to the LCPA for deposit in the 911 state grant fund.

(p) The 911 coordinating council shall make an annual report, to include a detailed description of all expenditures made from 911 fees received by the PSAPs *and governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services*, to the house committee on energy, utilities and telecommunications and the senate committee on utilities.

Sec. 13. On and after July 1, 2025, K.S.A. 12-5365 is hereby amended to read as follows: 12-5365. (a) There is hereby established in the state treasury the 911 federal grant fund. *All moneys received by the state from the federal government for the purposes provided in 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 911 federal grant fund.*

(b) ~~The chair of the 911 coordinating council shall serve as the administrator of the 911 federal grant fund and shall distribute grants in accordance with the recommendations of the 911 coordinating council.~~ Subject to the conditions and in accordance with the requirements of this act and 47 C.F.R. part 400, *as in effect on July 1, 2025,* the ~~chair~~ *chairperson of the board* is authorized to perform such acts necessary for the effectuation of this act.

(c) ~~Moneys received by the state from the federal government for the purposes of the fund shall be credited to the fund.~~

~~(d)~~*(1)* Subject to the conditions and in accordance with the requirements of ~~this act~~ *the Kansas 911 act* and 47 C.F.R. part 400, *as in effect on July 1, 2025,* moneys credited to the fund shall be used only:

~~(1)~~*(A)* To pay all expenses incurred in the administration of the fund; and

~~(2)~~*(B)* to provide grants to eligible municipalities only for necessary and reasonable costs incurred or to be incurred by PSAPs for:

~~(A)~~*(i)* Implementation of enhanced 911 service and next generation 911 service~~, as defined in K.S.A. 12-5363, and amendments thereto~~;

~~(B)~~*(ii)* purchase of equipment and upgrades and modification to equipment used solely to process the data elements of enhanced 911 service and next generation 911 service~~, as defined in K.S.A. 12-5363, and amendments thereto~~; and

~~(C)~~*(iii)* maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities.

(2) Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or for other capital outlay or equipment not expressly authorized by this act.

~~(e)~~*(d)* All payments and disbursements 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 ~~chair or by a person or persons designated by the chair~~ *chairperson of the board or the chairperson's designee*.

Sec. 14. On and after July 1, 2025, K.S.A. 12-5366 is hereby amended to read as follows: 12-5366. (a) There is hereby established in the state treasury the 911 state maintenance fund. *All moneys received pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the 911 state maintenance fund.*

(b) ~~The chair of the 911 coordinating council shall serve as the administrator of the 911 state maintenance fund and shall distribute grants in accordance with the recommendations of the 911 coordinating council. Subject to the conditions and in accordance with the requirements of this act and 47 C.F.R. part 400, the chair is authorized to perform such acts necessary for the effectuation of this act.~~

~~(c)~~ Moneys from the following sources shall be credited to the fund:

(1) Amounts appropriated or otherwise made available by the legislature for the purposes of the fund;

(2) interest attributable to investment of moneys in the fund; and

(3) amounts received from any public or private entity for the purposes of the fund.

~~(d)~~*(c) (1)* Moneys credited to the fund shall be used only:

~~(1)~~*(A)* To pay all expenses incurred in the administration of the fund; and

~~(2)~~*(B) development, deployment, implementation and maintenance of the statewide next generation 911 system; and*

(C) to provide grants to eligible municipalities only for necessary and reasonable costs incurred or to be incurred by PSAPs for:

~~(A)~~*(i)* Implementation of enhanced 911 service and next generation 911 service~~, as defined in K.S.A. 12-5363, and amendments thereto~~;

~~(B)~~*(ii)* purchase of equipment and upgrades and modification to equipment used solely to process the data elements of enhanced 911 service and next generation 911 service~~, as defined in K.S.A. 12-5363, and amendments thereto~~; and

~~(C)~~*(iii)* maintenance and license fees for such equipment and training of personnel to operate such equipment, including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities.

(2) Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities or for other capital outlay or equipment not expressly authorized by this act.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the 911 state maintenance fund interest earnings based on:

(1) The average daily balance of moneys in the 911 state maintenance fund for the preceding month; and

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

(f) All payments and disbursements 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 ~~chair or by a person or persons designated by the chair~~ *chairperson of the board or the chairperson's designee*.

Sec. 15. On and after July 1, 2025, K.S.A. 12-5367 is hereby amended to read as follows: 12-5367. *(a)* The ~~911 coordinating council~~ *state 911 board*, by an affirmative vote of nine voting members, shall select the local collection point administrator. In selecting the LCPA, the ~~council~~ *board* shall contract with the LCPA for services for no longer than two years, however, the ~~council~~ *board* may, by an affirmative vote of nine voting members, extend such contract for up to two additional years. The ~~911 coordinating council~~ *board* shall receive the approval of the legislative

coordinating council in selecting an LCPA if the entity to be designated as the LCPA is different than the previous entity designated as the LCPA. The ~~911 coordinating council~~ *board* shall annually review the designation of the LCPA and the contract with the LCPA ~~for services~~.

(b) Any contract made between the 911 coordinating council and an LCPA that is in existence on January 1, 2025, shall continue to be valid, effective and enforceable until extended, revised, revoked or terminated by the board.

(c) The LCPA shall be subject to the requirements of the Kansas open meetings act *and, except as provided in K.S.A. 12-5374, and amendments thereto*, the Kansas open records act ~~and~~. *The LCPA* shall treat all moneys received *by the LCPA* as public funds pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto. Notwithstanding any other provision of law to the contrary, the LCPA shall not be considered a state agency.

Sec. 16. On and after July 1, 2024, K.S.A. 12-5368 is hereby amended to read as follows: 12-5368. (a) Upon the approval of the 911 coordinating council, the LCPA shall establish the following funds, which shall not be a part of the state treasury: (1) The 911 state fund for the collection and distribution of 911 fees; (2) the 911 operations fund for administrative costs of the 911 coordinating council and deployment and maintenance of the statewide NG911 system; and (3) the 911 state grant fund for grants to individual PSAPs. All moneys originating from 911 fees, and any interest accrued on such fees, shall be paid to the LCPA for deposit in the 911 state fund or 911 operations fund pursuant to subsection (b). All unobligated federal moneys, and any interest accrued on such moneys, shall be transferred to the 911 federal grant fund.

(b) (1) Except as provided for in paragraph (2), prior to the distribution ~~to the PSAPs~~ *of moneys* pursuant to K.S.A. 12-5374, and amendments thereto, the LCPA shall withhold $.23 from every 911 fee remitted pursuant to K.S.A. 12-5369, and amendments thereto, and shall deposit such amount in the 911 operations fund for the deployment and maintenance of the statewide NG911 system and standardized functionality upgrades to that system.

(2) If the ~~funds~~ *moneys* withheld from distribution pursuant to paragraph (1) exceed 15% of the total receipts received by the LCPA from providers and the department over the prior three years, such ~~funds~~ *moneys* in excess of that 15% total shall be deposited in the 911 state grant fund and used for PSAP grants based on demonstrated need pursuant to subsection (d).

(3) If the balance in the 911 state grant fund is less than $2,000,000, prior to the distribution ~~to the PSAPs~~ pursuant to K.S.A. 12-5374, and amendments thereto, the LCPA shall withhold $.01 from every 911 fee

remitted pursuant to K.S.A. 12-5369, and amendments thereto, and shall deposit such amount in the 911 state grant fund. If the balance in the 911 state grant fund exceeds $2,000,000, the LCPA shall not withhold such amount.

(c) The council shall be responsible for ensuring that the 911 operations fund and the 911 state grant fund and any interest earned on money credited to the fund is only expended for the following purposes: (1) Projects involving the development and implementation of next generation 911 services; (2) costs associated with PSAP consolidation or cost-sharing projects; (3) expenses related to the 911 coordinating council; (4) costs of audits conducted pursuant to K.S.A. 12-5377, and amendments thereto; and (5) other costs pursuant to K.S.A. 12-5375, and amendments thereto.

(d) The council shall develop criteria ~~for PSAPs~~ for eligible purchases and for grant applicants and make the final determination as to the distribution of grant funds. Such criteria shall promote the procurement of equipment that meets open architecture and national technical standards. ~~Distribution of~~ Grant ~~funds~~ *moneys* shall not ~~include expenditures~~ *be used* to procure, maintain or upgrade subscriber radio equipment.

(e) The LCPA shall be authorized to maintain an action to collect any ~~funds~~ *moneys* owed by any ~~providers~~ *provider* in the district court in the county of the registered office of such provider or, if such provider does not have a registered office in the state, such an action may be maintained in the county where such provider's principal office is located. If such provider has no principal office in the state, such an action may be maintained in the district court of any county ~~in which~~ *where* such provider provides service.

Sec. 17. On and after July 1, 2025, K.S.A. 12-5368, as amended by section 16 of this act, is hereby amended to read as follows: 12-5368. (a) Upon the approval of the ~~911 coordinating council~~ *state 911 board*, the LCPA shall establish the following funds, which shall not be a part of the state treasury: (1) The 911 state fund for the collection and distribution of 911 fees; (2) the 911 operations fund for administrative costs of the ~~911 coordinating council~~ *state 911 board* and deployment and maintenance of the statewide NG911 system; and (3) the 911 state grant fund for grants to individual PSAPs. All moneys originating from 911 fees, and any interest accrued on such fees, shall be paid to the LCPA for deposit in the 911 state fund or 911 operations fund pursuant to subsection (b). All unobligated federal moneys, and any interest accrued on such moneys, shall be transferred to the 911 federal grant fund.

(b) (1) Except as provided for in paragraph (2), prior to the distribution of moneys pursuant to K.S.A. 12-5374, and amendments thereto, the LCPA shall withhold $.23 from every 911 fee remitted pursuant to K.S.A. 12-5369, and amendments thereto, and shall deposit such amount in the

911 operations fund for the deployment and maintenance of the statewide NG911 system and standardized functionality upgrades to that system.

(2) If the moneys withheld from distribution pursuant to paragraph (1) exceed 15% of the total receipts received by the LCPA from providers and the department over the prior three years, such moneys in excess of that 15% total shall be deposited in the 911 state grant fund and used for PSAP grants based on demonstrated need pursuant to subsection (d).

(3) If the balance in the 911 state grant fund is less than $2,000,000, prior to the distribution pursuant to K.S.A. 12-5374, and amendments thereto, the LCPA shall withhold $.01 from every 911 fee remitted pursuant to K.S.A. 12-5369, and amendments thereto, and shall deposit such amount in the 911 state grant fund. If the balance in the 911 state grant fund exceeds $2,000,000, the LCPA shall not withhold such amount.

(c) The ~~council~~ *state 911 board* shall be responsible for ensuring that the 911 operations fund and the 911 state grant fund and any interest earned on money credited to the fund is only expended for the following purposes: (1) Projects involving the development and implementation of next generation 911 services; (2) costs associated with PSAP consolidation or cost-sharing projects; (3) expenses related to the 911 coordinating council; ~~(4) costs of audits conducted pursuant to K.S.A. 12-5377, and amendments thereto;~~ and ~~(5)~~ *(4)* other costs pursuant to K.S.A. 12-5375, and amendments thereto.

(d) The ~~council~~ *state 911 board* shall develop criteria for eligible purchases and for grant applicants and make the final determination as to the distribution of grant funds. Such criteria shall promote the procurement of equipment that meets open architecture and national technical standards. Grant moneys shall not be used to procure, maintain or upgrade subscriber radio equipment.

(e) The *state 911 board or the* LCPA shall be authorized to maintain an action to collect any moneys owed by any provider in the district court in the county of the registered office of such provider or, if such provider does not have a registered office in the state, such an action may be maintained in the county where such provider's principal office is located. If such provider has no principal office in the state, such an action may be maintained in the district court of any county where such provider provides service.

Sec. 18. On and after January 1, 2026, K.S.A. 12-5368, as amended by section 17 of this act, is hereby amended to read as follows: 12-5368. (a) ~~Upon the approval of the state 911 board, the LCPA shall establish the following funds, which shall not be a part of the state treasury: (1) The 911 state fund for the collection and distribution of 911 fees; (2) the 911 operations fund for administrative costs of the state 911 board and deployment and maintenance of the statewide NG911 system; and (3) the 911 state~~

~~grant fund for grants to individual PSAPs. All moneys originating from 911 fees, and any interest accrued on such fees, shall be paid to the LCPA for deposit in the 911 state fund or 911 operations fund pursuant to subsection (b). All unobligated federal moneys, and any interest accrued on such moneys, shall be transferred to the 911 federal grant fund.~~

~~(b)~~(1) Except as provided for in paragraph (2), prior to the distribution of moneys pursuant to K.S.A. 12-5374, and amendments thereto, the LCPA shall withhold $.23 from every 911 fee remitted pursuant to K.S.A. 12-5369, and amendments thereto, and shall ~~deposit such amount in the 911 operations fund for the deployment and maintenance of the statewide NG911 system and standardized functionality upgrades to that system~~ *remit such moneys to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state 911 operations fund established pursuant to section 5, and amendments thereto*.

(2) If the moneys withheld from distribution pursuant to paragraph (1) exceed 15% of the total receipts received by the LCPA from providers and the department over the prior three years, such moneys in excess of that 15% total shall be ~~deposited in the 911 state grant fund and used for PSAP grants based on demonstrated need pursuant to subsection (d)~~ *remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state 911 grant fund established pursuant to section 6, and amendments thereto*.

(3) If the balance in the *state* 911 ~~state~~ grant fund is less than $2,000,000, prior to the distribution pursuant to K.S.A. 12-5374, and amendments thereto, the LCPA shall withhold $.01 from every 911 fee remitted pursuant to K.S.A. 12-5369, and amendments thereto, and shall ~~deposit such amount in the 911 state grant fund. If the balance in the 911 state grant fund exceeds $2,000,000, the LCPA shall not withhold such amount~~ *remit such moneys to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state 911 grant fund established pursuant to section 6, and amendments thereto*.

~~(c)~~*(b)* The state 911 board shall be responsible for ensuring that the ~~911 operations fund and the 911 state grant fund and any interest earned on money credited to the fund is only expended for the following purposes: (1) Projects involving the development and implementation of next generation 911 services; (2) costs associated with PSAP consolidation or cost-sharing projects; (3) expenses related to the 911~~

~~coordinating council; and (4) other costs pursuant to K.S.A. 12-5375, and amendments thereto~~ *moneys collected from 911 fees and prepaid wireless 911 fees are only expended for purposes authorized pursuant to the Kansas 911 act.*

~~(d)~~*(c)* The state 911 board shall develop criteria for eligible purchases and for grant applicants and make the final determination as to the distribution of grant funds. Such criteria shall promote the procurement of equipment that meets open architecture and national technical standards. Grant moneys shall not be used to procure, maintain or upgrade subscriber radio equipment.

~~(e)~~*(d)* The state 911 board or the LCPA shall be authorized to maintain an action to collect any moneys owed by any provider in the district court in the county of the registered office of such provider or, if such provider does not have a registered office in the state, such an action may be maintained in the county where such provider's principal office is located. If such provider has no principal office in the state, such an action may be maintained in the district court of any county where such provider provides service.

Sec. 19. On and after July 1, 2025, K.S.A. 12-5369 is hereby amended to read as follows: 12-5369. ~~Subject to the provisions of K.S.A. 12-5364(g), and amendments thereto~~*(a) Except as provided in subsection (b)*, there is hereby imposed a 911 fee in the amount of $.90 per month per subscriber account of any exchange telecommunications service, wireless telecommunications service, VoIP service, or other service capable of contacting a PSAP. Such fee shall not be imposed on prepaid wireless service. It shall be the duty of each exchange telecommunications service provider, wireless telecommunications service provider, VoIP service provider or other service provider to remit such fees to the LCPA as provided in K.S.A. 12-5370, and amendments thereto.

(b) The state 911 board may, pursuant to rules and regulations, lower the 911 fee established pursuant to subsection (a) upon a finding that the moneys generated by such 911 fee exceed the costs required to operate PSAPs in the state.

Sec. 20. On and after July 1, 2025, K.S.A. 12-5370 is hereby amended to read as follows: 12-5370. (a) Every billed service user shall be liable for the 911 fee until such fees have been paid to the exchange telecommunications service provider, wireless telecommunications service provider, VoIP service provider or other service provider.

(b) All providers shall have the duty to collect the ~~fees~~ *911 fee* imposed pursuant to ~~this act~~ *K.S.A. 12-5369, and amendments thereto*. Such ~~fees~~ *911 fee* shall be added to and may be stated separately in billings for the subscriber account. If stated separately in billings, the fees shall be labeled "911 fees."

(c) The provider shall have no obligation to take any legal action to enforce the collection of the ~~fees imposed by this act~~ *911 fee*. The provider shall provide annually to the LCPA a list of the amount of uncollected 911 fees along with the names and addresses of those service users ~~which~~ *that* carry a balance that can be determined by the provider to be nonpayment of such fees.

(d) The ~~fees imposed by this act~~ *911 fee* shall be collected insofar as practicable at the same time as, and along with, the charges for local exchange, wireless, VoIP, or other service in accordance with regular billing practice of the provider.

(e) ~~The 911 fees and the amounts required to be collected therefor are due monthly.~~ *Each provider shall remit* the amount of ~~such~~ *all 911* fees collected in ~~one~~ *each calendar* month ~~by the provider shall be remitted~~ to the LCPA not more than 15 days after the close of ~~the~~ *such* calendar month. ~~On or before the 15th day of each calendar month following,~~ *Upon each such remittance, the provider shall file* a return for the preceding month ~~shall be filed~~ with the LCPA. Such return shall be *provided* in such form and ~~shall contain such information~~ *manner* as required by the ~~LCPA~~ *board*. The provider required to file the return shall deliver the return together with a remittance of the amount of fees payable to the LCPA. The provider shall maintain records of the amount of any such fees collected in accordance with this act for a period of three years from the time the fees are collected.

(f) The provisions of this section shall not be construed to apply to *the* prepaid wireless ~~service~~ *911 fee*.

Sec. 21. On and after July 1, 2025, K.S.A. 12-5371 is hereby amended to read as follows: 12-5371. (a) There is hereby imposed a prepaid wireless 911 fee of 2.06% per retail transaction or, on and after the effective date of an adjusted amount per retail transaction that is established under subsection (f), such adjusted amount.

(b) The prepaid wireless 911 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 911 fee shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) For purposes of subsection (b), a retail transaction that is effected in person by a consumer in a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for the purposes of K.S.A. 79-3673(c)(3), and amendments thereto.

(d) The prepaid wireless 911 fee is the liability of the consumer and not of the seller nor of any provider, except that the seller shall be liable to

remit all prepaid wireless 911 fees that the seller collects from consumers pursuant to this section~~, and amendments thereto,~~ including all such fees that the seller is deemed to collect ~~where~~ *when* the amount of the charge has not been separately stated in an invoice, receipt or other similar document provided to the consumer by the seller.

(e) The amount of the prepaid wireless 911 fee that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(f) The prepaid wireless 911 fee shall be proportionately reduced upon any reduction to the fee imposed by K.S.A. 12-5369(a), and amendments thereto, pursuant to the ~~911 coordinating council's~~ *board's* authority to reduce the *911* fee under K.S.A. ~~12-5364(g)~~ *12-5369(b)*, and amendments thereto. The adjusted amount shall be the product of dividing the numeric amount of the new *911* fee adjusted pursuant to K.S.A. ~~12-5364(g)~~ *12-5369(b)*, and amendments thereto, by 50. Such reduction shall be effective on the effective date of the reduction of the *911* fee imposed by K.S.A. 12-5369(a), and amendments thereto, or, if later, the first day of the calendar quarter to occur at least 60 days after the enactment of the reduction of the *911* fee imposed by K.S.A. 12-5369(a), and amendments thereto. The department shall provide not less than 60 days' notice of such decrease on the department's website.

(g) When prepaid wireless service is sold with one or more other products or services for a single, non-itemized price, then the percentage specified in subsection (a) shall apply to the entire non-itemized price unless the seller elects to apply such percentage to: (1) If the amount of the prepaid wireless service is disclosed to the consumer as a dollar amount, such dollar amount; or (2) if the seller can identify the portion of the price that is attributable to the prepaid wireless service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes, such portion.

Sec. 22. On and after January 1, 2026, K.S.A. 12-5372 is hereby amended to read as follows: 12-5372. (a) Prepaid wireless 911 fees collected by sellers shall be remitted to the department by electronic filing that is consistent with the provisions of article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The department shall establish registration and payment procedures for the collection of the prepaid wireless 911 fee.

(b) To minimize additional costs to the department, the department may conduct audits of sellers in conjunction with sales and use tax au-

dits. The department is authorized to provide the *board and* LCPA with information obtained in such audits if such information indicates that a seller may not be complying with the provisions of this section and K.S.A. 12-5371, and amendments thereto. The *board or* LCPA may request the department to initiate collection or audit procedures on individual sellers if collection efforts by the *board or* LCPA are unsuccessful.

(c) The department shall establish procedures by which a seller may document that a sale is not a retail sale, which procedures shall substantially coincide with procedures for documenting sale for resale transactions for article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

(d) *(1)* ~~The department shall transfer all remitted prepaid wireless 911 fees to the LCPA within 30 days of receipt for distribution as provided in K.S.A. 12-5374, and amendments thereto~~ *Except as provided in paragraph (2), the department shall remit all moneys collected from the prepaid wireless 911 fees 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 and credit such amount to the state 911 operations fund established pursuant to section 5, and amendments thereto.*

(2) If the department remits $3,000,000 to the state treasurer pursuant to paragraph (1) in any given year, then all remaining moneys collected from the prepaid wireless 911 fee 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 and credit such amount to the state 911 fund established pursuant to section 7, and amendments thereto. Such moneys shall be distributed to governing bodies and PSAPs 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 governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services. Moneys distributed pursuant to this paragraph shall only be used for the uses authorized in K.S.A. 12-5375, and amendments thereto.

Sec. 23. On and after July 1, 2024, K.S.A. 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. 12-5368(b), and amendments thereto, and any amounts withheld pursuant to K.S.A. 12-5364(l), and amendments thereto, not later than 30 days after the receipt of ~~moneys~~ *911 fees* from providers pursuant to K.S.A. 12-5370 ~~and 12-5371~~, and amendments thereto, and

prepaid wireless 911 fees from the department pursuant to K.S.A. 12-5372, and amendments thereto, the LCPA shall distribute such moneys to the PSAPs *or to governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services*. The amount of money distributed to the PSAPs in each county*, or to any governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services,* 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%~~ *85%*
65,000 to 79,999	~~85%~~ *88%*
55,000 to 64,999	~~88%~~ *91%*
45,000 to 54,999	~~91%~~ *94%*
35,000 to 44,999	~~94%~~ *97%*
~~25,000 to 34,999~~	~~97%~~
Less than ~~25,000~~ *35,000*	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 the calculated amount for distribution within a county is less than $70,000, the $70,000 shall be distributed for services within that county.*

(3) If there is a single PSAP providing services for a county, such PSAP shall receive the governing body's distribution, if any. 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~~ *distributions to each PSAP* shall be proportionately divided between the PSAPs in the county.

(4) All moneys remaining after distribution, moneys withheld pursuant to K.S.A. 12-5368(b)(1), and amendments thereto, and any moneys that cannot be attributed to a specific PSAP *or governing body* 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~~ *governing bodies of PSAPs* in an amount proportional to each county's population as a percentage share of the population of the state. ~~For each PSAP within~~ *If there is more than one PSAP in* a county, such moneys shall be distrib-

uted 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~~ *governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services*. ~~Such~~ Moneys distributed to ~~counties~~ *governing bodies* and PSAPs *pursuant to this section* only shall be used for the uses authorized in K.S.A. 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~~*Records* provided by ~~providers~~ *any provider* to the ~~local collection point administrator~~ *LCPA* or to the 911 coordinating council pursuant to this act ~~will~~ *shall* be treated as proprietary records ~~that will~~ *and shall* be withheld from the public upon request of the ~~party~~ *provider* submitting such records.

Sec. 24. On and after July 1, 2025, K.S.A. 12-5374, as amended by section 23 of this act, is hereby amended to read as follows: 12-5374. (a) (1) Except for the amounts withheld by the LCPA pursuant to K.S.A. 12-5368(b), and amendments thereto, and any amounts withheld pursuant to ~~K.S.A. 12-5364(l)~~ *section 4*, and amendments thereto, not later than 30 days after the receipt of 911 fees from providers pursuant to K.S.A. 12-5370, and amendments thereto, and prepaid wireless 911 fees from the department pursuant to K.S.A. 12-5372, and amendments thereto, the LCPA shall distribute such moneys to the PSAPs or to governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services. The amount of money distributed to the PSAPs in each county, or to any governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services, 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	Percentage of collected 911 fees to distribute
Over 80,000	85%
65,000 to 79,999	88%
55,000 to 64,999	91%
45,000 to 54,999	94%
35,000 to 44,999	97%
Less than 35,000	100%

(2) If the calculated amount for distribution within a county is less than $70,000, the $70,000 shall be distributed for services within that county.

(3) *The state 911 board may increase the minimum county distribution amount not more than once per calendar year by an amount that shall not exceed the minimum county distribution amount established for the preceding calendar year multiplied by 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 for the preceding calendar year. Prior to increasing the minimum county distribution amount, the state 911 board shall evaluate:*

(A) Whether an increase is needed based on the expenditures of the counties that are subject to such minimum distribution; and

(B) the impact of any such proposed increase to the long-term financial stability of all other distributions made pursuant to this section.

(4) If there is a single PSAP providing services for a county, such PSAP shall receive the governing body's distribution, if any. If there is more than one PSAP in a county then distributions to each PSAP shall be proportionately divided between the PSAPs in the county.

~~(4)~~*(5)* All moneys remaining after distribution, moneys withheld pursuant to K.S.A. 12-5368(b)(1), and amendments thereto, and any moneys that cannot be attributed to a specific PSAP or governing body 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 governing bodies of PSAPs in an amount proportional to each county's population as a percentage share of the population of the state. If there is more than one PSAP in 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 governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services. Moneys distributed to governing bodies and PSAPs pursuant to this section only shall be used for the uses authorized in K.S.A. 12-5375, and amendments thereto.

(d) The LCPA shall keep accurate accounts of all receipts and disbursements of moneys from the 911 fees.

(e) Records provided by any provider to the LCPA or to the *state* 911 ~~coordinating council~~ *board* pursuant to this act shall be treated as proprietary records and shall be withheld from the public upon request of the provider submitting such records.

Sec. 25. On and after January 1, 2026, K.S.A. 12-5374, as amended by section 24 of this act, is hereby amended to read as follows: 12-5374. (a) (1) Except for the amounts withheld by the LCPA pursuant to K.S.A. ~~12-5368(b)~~ *12-5368*, and amendments thereto, and any amounts withheld pursuant to section 4, and amendments thereto, not later than 30 days after the receipt of 911 fees from providers pursuant to K.S.A. 12-5370, and amendments thereto, and prepaid wireless 911 fees from the department pursuant to K.S.A. 12-5372, and amendments thereto, the ~~LCPA~~ *state 911 board* shall distribute such moneys to the PSAPs or to governing bodies that contract with another governing body of a PSAP for the provision of 911 PSAP services. The amount of money distributed to the PSAPs in each county, or to any governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services, 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	Percentage of collected 911 fees to distribute
Over 80,000	85%
65,000 to 79,999	88%
55,000 to 64,999	91%
45,000 to 54,999	94%
35,000 to 44,999	97%
Less than 35,000	100%

(2) If the calculated amount for distribution within a county is less than $70,000, the $70,000 shall be distributed for services within that county.

(3) The state 911 board may increase the minimum county distribution amount not more than once per calendar year by an amount that shall not exceed the minimum county distribution amount established for the preceding calendar year multiplied by 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 for the preceding calendar year. Prior to increasing the minimum county distribution amount, the state 911 board shall evaluate:

(A) Whether an increase is needed based on the expenditures of the counties that are subject to such minimum distribution; and

(B) the impact of any such proposed increase to the long-term financial stability of all other distributions to PSAPs and counties made pursuant to this section.

(4) If there is a single PSAP providing services for a county, such PSAP shall receive the governing body's distribution, if any. If there is

more than one PSAP in a county then distributions to each PSAP shall be proportionately divided between the PSAPs in the county.

(5) ~~All moneys remaining after distribution, moneys withheld pursuant to K.S.A. 12-5368(b)(1), and amendments thereto, and any moneys that cannot be attributed to a specific PSAP or governing body shall be transferred to the 911 operations fund~~*After each distribution that is made pursuant to this section, the state 911 board or LCPA shall certify to the director of accounts and reports the total amount of unencumbered moneys remaining in the state 911 fund and the amount of moneys that could not be attributed to a specific PSAP or governing body. Upon receipt of such certification, the director of accounts and reports shall transfer such certified amount from the state 911 fund to the state 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 governing bodies of PSAPs in an amount proportional to each county's population as a percentage share of the population of the state. If there is more than one PSAP in 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 governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services. Moneys distributed to governing bodies and PSAPs pursuant to this section only shall be used for the uses authorized in K.S.A. 12-5375, and amendments thereto~~.

~~(d)~~ The *state 911 board and the* LCPA shall keep accurate accounts of all receipts and disbursements of moneys from the 911 fees.

~~(e)~~*(c)* Records provided by any provider to the LCPA or to the state 911 board pursuant to this act shall be treated as proprietary records and shall be withheld from the public upon request of the provider submitting such records.

Sec. 26. On and after July 1, 2024, K.S.A. 12-5375 is hereby amended to read as follows: 12-5375. (a) *(1)* ~~The proceeds of the 911 fees imposed pursuant to this act~~ *Moneys distributed to governing bodies and PSAPs pursuant to K.S.A. 12-5374, and amendments thereto*, and any interest earned on revenue derived from such ~~fee~~ *moneys*, shall be used only for necessary and reasonable costs incurred or to be incurred by *governing bodies and* PSAPs for:

~~(1)~~*(A)* Implementation of 911 services;

~~(2)~~*(B)* purchase of 911 equipment and upgrades;

~~(3)~~*(C)* maintenance and license fees for 911 equipment;

~~(4)~~*(D)* training of personnel, not to include salaries;

~~(5)~~*(E)* monthly recurring charges billed by service suppliers;

~~(6)~~*(F)* installation, service establishment and nonrecurring start-up charges billed by the service supplier;

~~(7)~~*(G)* charges for capital improvements and equipment or other physical enhancements to the 911 system;~~or~~

~~(8)~~*(H) maintenance and updates that are necessary to maintain accurate GIS data;*

(I) emergency repair or replacement of a radio tower; or

(J) the original acquisition and installation of road signs designed to aid in the delivery of emergency service.

(2) Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities. Such costs shall also not include expenditures to purchase, procure, maintain or upgrade subscriber radio equipment.

(3) A governing body may contract with another governing body of a PSAP for the provision of 911 PSAP services provided that the moneys distributed to any such governing body pursuant to K.S.A. 12-5374, and amendments thereto, shall only be used as authorized by this section. If a governing body serves as the provider of PSAP services for another governing body, both governing bodies shall enter into a contract or memorandum of agreement that addresses contingency plans and overflow arrangements. Any such contract or memorandum of agreement shall be reviewed by the 911 coordinating council with respect to the provisions that relate to contingency plans and overflow arrangements or that may conflict with the function of the statewide 911 system. If the 911 coordinating council determines that any such provisions are not acceptable, the 911 coordinating council and the governing bodies shall collaborate and work to resolve such concerns prior to the effective date of such contract or memorandum of agreement. Any governing body contracting with another governing body of a PSAP for the provision of 911 PSAP services shall establish in the contract or memorandum of agreement an agreed upon percentage of the governing body's distribution amount for the LCPA to distribute to the governing body of the PSAP that is providing the 911 services.

(b) The 911 coordinating council shall, pursuant to rules and regulations, establish a process for a PSAP *or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services*, ~~at the discretion of the PSAP,~~ to seek pre-approval of an expenditure. The council shall respond in writing to any pre-approval request within 30

days and inform the PSAP ~~if~~ *stating whether* the requested expenditure is approved or disapproved. If the expenditure is disapproved, the written notification shall state the reason for the disapproval and such PSAP *or governing body* may, within 15 days after service of the notification, make a written request to the council to appeal the council's decision and for a hearing to be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The 911 coordinating council shall annually review expenditures of 911 ~~funds~~ *moneys* reported on the annual report for each PSAP *or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services* and shall appoint a committee to review such expenditures. If the committee determines that a reported expenditure was not authorized by this act, the committee shall request that the expenditure be refunded by the PSAP *or governing body* to the PSAP's *or governing body's* 911 account. If a PSAP *or governing body* does not concur with the finding of the committee, the PSAP *or governing body* may request a review of the decision of the committee before the 911 coordinating council. If the 911 coordinating council, based upon information obtained from an audit ~~of the PSAPs~~, determines that any PSAP *or governing body* has used any 911 fees for any purpose other than those authorized in this act, the governing body for such PSAP *or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services* shall repay all such moneys used for any unauthorized purposes to the 911 fee fund of such PSAP *or governing body*. Upon a finding that the expenditure was made intentionally ~~from the 911 fee fund of such PSAP~~ for a purpose clearly established as an unauthorized expenditure, the 911 coordinating council may require such PSAP *or governing body* to pay the lesser of $500 or 10%, of such misused moneys, to the LCPA for deposit in the 911 state grant fund. No such repayment of 911 fees shall be imposed pursuant to this section except upon the written order of the council. Such order shall state the unauthorized purposes for which the funds were used, the amount of funds to be ~~repayed~~ *repaid* and the right of such PSAP *or governing body* to appeal to a hearing before the Kansas office of administrative hearings. Any such PSAP *or governing body* may, within 15 days after service of the order, make a written request to the council for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any final action of the council pursuant to subsection (b) or (c) is subject to review in accordance with the Kansas judicial review act.

Sec. 27. On and after July 1, 2025, K.S.A. 12-5375, as amended by section 26 of this act, is hereby amended to read as follows: 12-5375. (a) (1) Moneys distributed to governing bodies and PSAPs pursuant to K.S.A.

12-5374, and amendments thereto, and any interest earned on revenue derived from such moneys, shall be used only for necessary and reasonable costs incurred or to be incurred by governing bodies and PSAPs for:

(A) Implementation of 911 services;

(B) purchase of 911 equipment and upgrades;

(C) maintenance and license fees for 911 equipment;

(D) training of personnel, not to include salaries;

(E) monthly recurring charges billed by service suppliers;

(F) installation, service establishment and nonrecurring start-up charges billed by the service supplier;

(G) charges for capital improvements and equipment or other physical enhancements to the 911 system;

(H) maintenance and updates that are necessary to maintain accurate GIS data;

(I) emergency repair or replacement of a radio tower; or

(J) the original acquisition and installation of road signs designed to aid in the delivery of emergency service.

(2) Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities. Such costs shall also not include expenditures to purchase, procure, maintain or upgrade subscriber radio equipment.

(3) A governing body may contract with another governing body of a PSAP for the provision of 911 PSAP services provided that the moneys distributed to any such governing body pursuant to K.S.A. 12-5374, and amendments thereto, shall only be used as authorized by this section. If a governing body serves as the provider of PSAP services for another governing body, both governing bodies shall enter into a contract or memorandum of agreement that addresses contingency plans and overflow arrangements. Any such contract or memorandum of agreement shall be reviewed by the *state* 911 ~~coordinating council~~ *board* with respect to the provisions that relate to contingency plans and overflow arrangements or that may conflict with the function of the statewide 911 system. If the *state* 911 ~~coordinating council~~ *board* determines that any such provisions are not acceptable, the *state* 911 ~~coordinating council~~ *board* and the governing bodies shall collaborate and work to resolve such concerns prior to the effective date of such contract or memorandum of agreement. Any governing body contracting with another governing body of a PSAP for the provision of 911 PSAP services shall establish in the contract or memorandum of agreement an agreed upon percentage of the governing body's distribution amount for the LCPA to distribute to the governing body of the PSAP that is providing the 911 services.

(b) The *state* 911 ~~coordinating council~~ *board* shall, pursuant to rules and regulations, establish a process for a PSAP or governing body that

contracts with another governing body of a PSAP for the provision of 911 PSAP services, to seek pre-approval of an expenditure. The ~~council~~ *state 911 board* shall respond in writing to any pre-approval request within 30 days and inform the PSAP stating whether the requested expenditure is approved or disapproved. If the expenditure is disapproved, the written notification shall state the reason for the disapproval and such PSAP or governing body may, within 15 days after service of the notification, make a written request to the ~~council~~ *state 911 board* to appeal the ~~council's~~ *board's* decision and for a hearing to be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The *state* 911 ~~coordinating council~~ *board* shall annually review expenditures of 911 moneys reported on the annual report for each PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services and shall appoint a committee to review such expenditures. If the committee determines that a reported expenditure was not authorized by this act, the committee shall request that the expenditure be refunded by the PSAP or governing body to the PSAP's or governing body's 911 account. If a PSAP or governing body does not concur with the finding of the committee, the PSAP or governing body may request a review of the decision of the committee before the *state* 911 ~~coordinating council~~ *board*. If the *state* 911 ~~coordinating council~~ *board*, based upon information obtained from an audit, determines that any PSAP or governing body has used any 911 fees for any purpose other than those authorized in this act, the governing body for such PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services shall repay all such moneys used for any unauthorized purposes to the 911 fee fund of such PSAP or governing body. Upon a finding that the expenditure was made intentionally for a purpose clearly established as an unauthorized expenditure, the *state* 911 ~~coordinating council~~ *board* may require such PSAP or governing body to pay the lesser of $500 or 10%, of such misused moneys, to the LCPA for deposit in the 911 state grant fund. No such repayment of 911 fees shall be imposed pursuant to this section except upon the written order of the ~~council~~ *state 911 board*. Such order shall state the unauthorized purposes for which the funds were used, the amount of funds to be repaid and the right of such PSAP or governing body to appeal to a hearing before the Kansas office of administrative hearings. Any such PSAP or governing body may, within 15 days after service of the order, make a written request to the ~~council~~ *state 911 board* for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any final action of the ~~council~~ *state 911 board* pursuant to subsection (b) or (c) is subject to review in accordance with the Kansas judicial review act.

Sec. 28. On and after January 1, 2026, K.S.A. 12-5375, as amended by section 27 of this act, is hereby amended to read as follows: 12-5375. (a) (1) Moneys distributed to governing bodies and PSAPs pursuant to K.S.A. 12-5374, and amendments thereto, and any interest earned on revenue derived from such moneys, shall be used only for necessary and reasonable costs incurred or to be incurred by governing bodies and PSAPs for:

(A) Implementation of 911 services;

(B) purchase of 911 equipment and upgrades;

(C) maintenance and license fees for 911 equipment;

(D) training of personnel, not to include salaries;

(E) monthly recurring charges billed by service suppliers;

(F) installation, service establishment and nonrecurring start-up charges billed by the service supplier;

(G) charges for capital improvements and equipment or other physical enhancements to the 911 system;

(H) maintenance and updates that are necessary to maintain accurate GIS data;

(I) emergency repair or replacement of a radio tower; or

(J) the original acquisition and installation of road signs designed to aid in the delivery of emergency service.

(2) Such costs shall not include expenditures to lease, construct, expand, acquire, remodel, renovate, repair, furnish or make improvements to buildings or similar facilities. Such costs shall also not include expenditures to purchase, procure, maintain or upgrade subscriber radio equipment.

(3) A governing body may contract with another governing body of a PSAP for the provision of 911 PSAP services provided that the moneys distributed to any such governing body pursuant to K.S.A. 12-5374, and amendments thereto, shall only be used as authorized by this section. If a governing body serves as the provider of PSAP services for another governing body, both governing bodies shall enter into a contract or memorandum of agreement that addresses contingency plans and overflow arrangements. Any such contract or memorandum of agreement shall be reviewed by the state 911 board with respect to the provisions that relate to contingency plans and overflow arrangements or that may conflict with the function of the statewide 911 system. If the state 911 board determines that any such provisions are not acceptable, the state 911 board and the governing bodies shall collaborate and work to resolve such concerns prior to the effective date of such contract or memorandum of agreement. Any governing body contracting with another governing body of a PSAP for the provision of 911 PSAP services shall establish in the contract or memorandum of agreement an agreed upon percentage of the governing body's distribution amount for the LCPA to distribute to the governing body of the PSAP that is providing the 911 services.

(b) The state 911 board shall, pursuant to rules and regulations, establish a process for a PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services, to seek pre-approval of an expenditure. The state 911 board shall respond in writing to any pre-approval request within 30 days and inform the PSAP stating whether the requested expenditure is approved or disapproved. If the expenditure is disapproved, the written notification shall state the reason for the disapproval and such PSAP or governing body may, within 15 days after service of the notification, make a written request to the state 911 board to appeal the board's decision and for a hearing to be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) The state 911 board shall annually review expenditures of 911 moneys reported on the annual report for each PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services and shall appoint a committee to review such expenditures. If the committee determines that a reported expenditure was not authorized by this act, the committee shall request that the expenditure be refunded by the PSAP or governing body to the PSAP's or governing body's 911 account. If a PSAP or governing body does not concur with the finding of the committee, the PSAP or governing body may request a review of the decision of the committee before the state 911 board. If the state 911 board, based upon information obtained from an audit, determines that any PSAP or governing body has used any 911 fees for any purpose other than those authorized in this act, the governing body for such PSAP or governing body that contracts with another governing body of a PSAP for the provision of 911 PSAP services shall repay all such moneys used for any unauthorized purposes to the 911 fee fund of such PSAP or governing body. Upon a finding that the expenditure was made intentionally for a purpose clearly established as an unauthorized expenditure, the state 911 board may require such PSAP or governing body to pay the lesser of $500 or 10%, of such misused moneys, to the LCPA ~~for deposit in the 911 state grant fund~~. *Upon receipt of any moneys paid pursuant to this subsection, the LCPA shall remit such moneys 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 and credit such amount to the state 911 grant fund.* No such repayment of 911 fees shall be imposed pursuant to this section except upon the written order of the state 911 board. Such order shall state the unauthorized purposes for which the funds were used, the amount of funds to be repaid and the right of such PSAP or governing body to appeal to a hearing before the Kansas office of administrative hearings. Any such PSAP or governing body may, within 15 days after

service of the order, make a written request to the state 911 board for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any final action of the state 911 board pursuant to subsection (b) or (c) is subject to review in accordance with the Kansas judicial review act.

Sec. 29. On and after July 1, 2025, K.S.A. 12-5377 is hereby amended to read as follows: 12-5377. (a) The receipts and disbursements of the LCPA shall be audited yearly by a licensed municipal accountant or certified public accountant.

(b) The ~~LCPA~~ *state 911 board* may require an audit of any provider's books and records concerning the collection and remittance of fees pursuant to this act. ~~The cost of any such audit shall be paid from the 911 operations fund.~~

(c) ~~(1) On or before December 31, 2018, and at least once every five years thereafter, the division of post audit shall conduct an audit of the 911 system to determine: (A) Whether the moneys received by PSAPs pursuant to this act are being used appropriately; (B) whether the amount of moneys collected pursuant to this act is adequate; and (C) the status of 911 service implementation. The auditor to conduct such audit shall be specified in accordance with K.S.A. 46-1122, and amendments thereto.~~

~~(2) The post auditor shall compute the reasonably anticipated cost of providing audits pursuant to this subsection, subject to review and approval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the division of post audit shall be reimbursed from the 911 operations fund for the amount approved by the contract audit committee. The audit report shall be submitted to the 911 coordinating council, the LCPA, the house of representatives committee on energy, utilities and telecommunications and the senate committee on utilities.~~

~~(d) (1) On or before December 31, 2018, the division of post audit shall conduct an audit of the budget and expenditures of the 911 coordinating council. In conducting such audit, the division shall examine: (A) The annual expenses and financial needs, including personnel, of the council; (B) the total annual operating expenses of the council that are included in the 2.5% cap on expenditures pursuant to K.S.A. 12-5364(i), and amendments thereto; (C) the current and projected contractual expenses of the council; (D) the expenditures and distribution of moneys from the 911 state grant fund by the council; and (E) whether the moneys expended by the council are being used pursuant to this act. The auditor, to conduct such audit, shall be specified in accordance with K.S.A. 46-1122, and amendments thereto.~~

~~(2) The post auditor shall compute the reasonably anticipated cost of providing the audit pursuant to this subsection, subject to review and ap-~~

~~proval by the contract audit committee established by K.S.A. 46-1120, and amendments thereto. Upon such approval, the division of post audit shall be reimbursed from the 911 operations fund for the amount approved by the contract audit committee. The audit report shall be submitted to the 911 coordinating council, the house of representatives committee on energy, utilities and telecommunications and the senate committee on utilities.~~

~~(e)~~ The legislature shall review this act at the regular 2019 legislative session and at the regular legislative session every five years thereafter.

Sec. 30. On and after July 1, 2024, K.S.A. 12-5364, 12-5368, 12-5374 and 12-5375 are hereby repealed.

Sec. 31. On and after July 1, 2025, K.S.A. 12-5362, 12-5363, 12-5364, as amended by section 12 of this act, 12-5365, 12-5366, 12-5367, 12-5368, as amended by section 16 of this act, 12-5369, 12-5370, 12-5371, 12-5374, as amended by section 23 of this act, 12-5375, as amended by section 26 of this act, 12-5377, 12-5378 and 12-5379 are hereby repealed.

Sec. 32. On and after January 1, 2026, K.S.A. 12-5368, as amended by section 17 of this act, 12-5372, 12-5374, as amended by section 24 of this act, and 12-5375, as amended by section 27 of this act, are hereby repealed.

Sec. 33. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 15, 2024.

Published in the *Kansas Register* April 25, 2024.

CHAPTER 54

SENATE BILL No. 462

AN ACT concerning motor carriers; relating to the Kansas uniform commercial drivers' license act; authorizing the director of vehicles to waive the knowledge and skills test for driving a commercial vehicle for an applicant that provides evidence that such applicant qualifies for the military even exchange program for a commercial driver's license; authorizing the director of vehicles to adopt rules and regulations for participation in the federal motor carrier safety administration's drug and alcohol clearinghouse program; disqualifying a person's commercial driving privileges when such person has violated or is in noncompliance with the requirements of the clearinghouse; amending K.S.A. 8-2,133 and repealing the existing section.

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

New Section 1. (a) The director is authorized to adopt any rules and regulations necessary for the participation in and implementation of the federal motor carrier safety administration's drug and alcohol clearinghouse program under 49 C.F.R. § 382, as in effect on July 1, 2024.

(b) Prior to issuing or renewing a commercial driver's license or instruction permit, the director shall query the federal motor carrier safety administration's drug and alcohol clearinghouse. The director shall review the commercial driver's information when notified by the clearinghouse of a status change to the commercial driver.

(c) The director shall disqualify a driver's commercial driving privileges within 60 days of receiving notice from the federal motor carrier safety administration's drug and alcohol clearinghouse that a driver is found to be in violation of or noncompliance with the clearinghouse requirements.

(d) A disqualification of commercial driving privileges pursuant to this section shall be removed upon notification from the federal motor carrier safety administration's drug and alcohol clearinghouse that the driver is no longer in violation of or noncompliance with the clearinghouse requirements.

(e) A disqualification of commercial driving privileges pursuant to this section shall be removed, as expeditiously as possible, following notification from the federal motor carrier safety administration's drug and alcohol clearinghouse that the driver was erroneously identified as in violation of or noncompliance with the clearinghouse requirements.

(f) This section shall be a part of and supplemental to the Kansas uniform commercial drivers' license act.

Sec. 2. K.S.A. 8-2,133 is hereby amended to read as follows: 8-2,133. (a) Except as provided in K.S.A. 8-2,146, and amendments thereto, or as provided in K.S.A. 8-2,148, and amendments thereto, no person may be issued a commercial driver's license unless that person is a resident of this

state and has passed a knowledge and skills test for driving a commercial motor vehicle ~~which~~ *that* complies with minimum federal standards established by 49 C.F.R. § 383, subparts E, G and H and has satisfied all other requirements of the commercial motor vehicle safety act in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the secretary, except that the secretary may accept the results of a person's knowledge test conducted in another state if such test complies with minimum federal standards. The secretary shall accept results of a person's skills test given in accordance with the provisions of subsection (c).

(b) The secretary may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, if:

(1) The test is the same which would otherwise be administered by the state; and

(2) the third party has entered into an agreement with the state which complies with requirements of 49 C.F.R. § 383.75.

(c) The secretary shall authorize any community college or technical college, upon such community college's or technical college's request, to administer the skills test required by subsection (a). The secretary shall grant priority status to requests by any community college or technical college with a truck driver training course in place as of July 1, 2014. The secretary shall authorize such testing ~~which~~ *that* complies with the requirements of 49 C.F.R. part 383 in an agreement between the requesting community college or technical college and the state. ~~The secretary shall adopt rules and regulations to implement the testing procedure provided for in this subsection before January 1, 2015.~~

(d) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked or canceled in any state; nor shall a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(e) The director may authorize the skills test required by subsection (a) to be waived for an applicant that provides evidence of military commercial vehicle driving experience *or that such applicant qualifies for a waiver under the military even exchange program*. To qualify for such a waiver, the applicant must satisfy the criteria established by 49 C.F.R. § 383.77.

Sec. 3. K.S.A. 8-2,133 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 15, 2024.

CHAPTER 55

HOUSE BILL No. 2607

AN ACT concerning agriculture; relating to the Kansas department of agriculture; the Kansas pesticide law; the Kansas chemigation safety law; requiring supervision and training for uncertified applicators; clarifying definition of governmental agency; requiring applicants to file certificates of liability insurance or surety bonds in lieu of letters of credit or proof of an escrow; government agency certification for pesticide applications in the sodium cyanide predator control category; requiring direct supervision of registered pest control technicians by a certified commercial applicator when applying restricted use pesticides; expanding applicability of civil penalty provisions to any person or entity that violates the Kansas pesticide law; adding additional categories of qualification for certification and licensing; updating private applicator certificate requirements; allowing the secretary to establish a training program for initial certification of private applicators as an alternative to a written examination; requiring additional information in statements of service or contracts; government agencies to maintain records relating to each application of pesticide made by such government agency; applying the same criminal penalty to certified private applicators as other persons for violations of the Kansas pesticide law; removing the secretary's authority to deny, suspend, revoke or modify a permit if an applicant, registrant or permit holder has been convicted or pled guilty to a state or federal felony; amending K.S.A. 2-2438a, 2-2440, 2-2440b, 2-2440e, 2-2443a, 2-2444a, 2-2445a, 2-2446, 2-2448, 2-2449, 2-2450, 2-2455, 2-2461, 2-2467a and 2-3310 and repealing the existing sections.

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

New Section 1. (a) Each pesticide business licensee who applies restricted use pesticides or causes restricted use pesticides to be applied and employs uncertified applicators to make such pesticide applications shall provide appropriate supervision and training for each uncertified applicator.

(b) Each private applicator who permits uncertified applicators to apply restricted use pesticides or causes restricted use pesticides to be applied shall provide appropriate supervision and training for each uncertified applicator.

(c) Uncertified applicators may not apply any restricted use pesticide unless the application is supervised by a certified applicator who is certified to apply restricted use pesticides for the control of pests in the category or subcategory for which the pesticide application is made.

(d) The secretary may adopt rules and regulations to prescribe requirements for appropriate supervision and training of uncertified applicators by certified applicators.

(e) Each uncertified applicator shall have received training, to the extent prescribed by the secretary in rules and regulations, in each of the subjects enumerated in K.S.A. 2-2443a, and amendments thereto.

(f) (1) Each pesticide business licensee shall maintain records to verify that each uncertified applicator employed by such pesticide business licensee has been properly trained.

(2) The secretary may adopt rules and regulations to prescribe record requirements, including, but not limited to, the training information that pesticide business licensees are required to maintain. Such records shall be:

(A) Maintained for a period of three years after the training has been given; and

(B) made available to the secretary or the secretary's authorized designee upon request.

(g) This section shall be a part of and supplemental to the Kansas pesticide law.

Sec. 2. K.S.A. 2-2438a is hereby amended to read as follows: 2-2438a. As used in this act, unless the context otherwise requires~~, the following words and phrases shall have the meanings ascribed to them in this section~~:

(a) "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish and shellfish.

(b) "Department" means the Kansas department of agriculture~~ of the state of Kansas~~.

(c) "Certified applicator" means any individual who is certified under this act to use or supervise the use of any restricted use pesticide~~ which~~ *that* is classified for restricted use by a certified applicator.

(1) "Certified commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of any pesticide~~ which~~ *that* is classified for restricted use for any purpose or on any property other than as provided in paragraph (2)~~ of this subsection (c)~~.

(2) "Certified private applicator" means a certified applicator who uses or supervises the use of any pesticide~~ which~~ *that* is classified for restricted use for purposes of producing any agricultural commodity, (A) on property owned or rented by such person or such person's employer or (B) if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

(d) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(e) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(f) "Equipment" means any ground, water or aerial apparatus, used to apply any pesticide but shall not include any pressurized hand size household apparatus used to apply any pesticide or any equipment, apparatus or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(g) "Fungus" means any nonchlorophyll-bearing thallophyte, including, but not limited to, rust, smut, mildew, mold, yeast and bacteria, ex-

cept those on or in man or other animals and those on or in processed food, beverages or pharmaceuticals.

(h) "General use pesticide" ~~shall mean and include~~ *means* all pesticides ~~which~~ *that* have not been designated, by rule or regulation of the secretary, as being restricted use pesticides.

(i) "Insect" means any small invertebrate animal having the body segmented, belonging to the class insecta and other classes of arthropods, including, but not limited to, beetles, bugs, bees, flies, spiders, mites, ticks and centipedes.

(j) "Registered pest control technician" means an uncertified commercial applicator who applies pesticides for wood destroying pest control, for structural pest control, for ornamental pest control, for turf pest control, for interior landscape pest control or for any combination of these types of pest control, and who has received verifiable training.

(k) "Nematode" means any unsegmented roundworms of the class nematoda, with elongated, fusiform~~,~~ or saclike bodies covered with cuticle, inhabiting soil, water, plants or plant parts. Such roundworms may also be referred to as nemas or eelworms.

(l) "Person" means any individual, partnership, association of persons, corporation or governmental agency.

(m) "Pest" means, but is not limited to, any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in man or other animals~~,~~ or ~~which~~ *that* the secretary may declare to be a pest.

(n) "Pesticide" means, but is not limited to, (1) any substance or mixture of substances used to prevent, destroy, control, repel, attract or mitigate any pest and (2) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant.

(o) "Pesticide business" means any individual, partnership, association of persons or corporation ~~which~~ *that* applies pesticides to the property of another for compensation.

(p) "Pesticide business licensee" ~~shall mean~~ *means* an individual, business, association of persons or corporation who is licensed or would be required to be licensed under the provisions of K.S.A. 2-2440, and amendments thereto.

(q) "Pesticide dealer" means any person who sells a pesticide to another person for application.

(r) "Plant regulator" means any substance or mixture of substances intended through physiological action~~,~~ to accelerate or retard the rate of growth or maturation~~,~~ or to otherwise alter the behavior of plants but shall not include substances insofar as they are used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.

~~The term~~ "Plant regulator" ~~shall~~ *does* not include any such nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and not for pest destruction if such mixtures or soil amendments, in the undiluted packaged concentration are nontoxic and nonpoisonous.

(s) "Restricted use pesticide" ~~shall mean and include~~ *means* all pesticide uses designated as such by rules and regulations of the secretary.

(t) "Secretary" means the secretary of agriculture.

(u) "Under the supervision of" means, unless otherwise provided by the labeling of the pesticide product, acting under the instructions and control of another person who is available if and when needed, even though such other person is not physically present at the time and place the act is done.

(v) "Weed" means any plant or part thereof ~~which~~ *that* grows where not wanted.

(w) "Use of any pesticide in a manner inconsistent with its label or labeling" means to use any pesticide in a manner not permitted by the label or labeling.

(x) "Pest control" means the destruction, prevention, repulsion or mitigation of a population, infection or infestation of a pest.

(y) "Pesticide management area" means a site or area designated by the secretary pursuant to K.S.A. 2-2472, and amendments thereto, ~~within which~~ *where* a pesticide management plan is deemed necessary for the protection of the public health, safety, welfare or natural resources of the state.

(z) "Natural resources" means and includes soils, water and any form of terrestrial or aquatic or animal life.

(aa) "Pesticide rinsate" means the water contaminated with pesticides from the cleaning of the inside of pesticide containers or pesticide tanks.

(bb) "Governmental agency" or "government agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of a local, state or federal government when acting to enforce or administer any law, regulation or ordinance or otherwise acting in its official capacity.

Sec. 3. K.S.A. 2-2440 is hereby amended to read as follows: 2-2440. (a) Subject to the provisions of subsection (d), it is unlawful for any pesticide business that has not been issued a pesticide business license to:

(1) Advertise, offer for sale, sell or perform any service for the control of a pest on the property of another or apply a pesticide to the property of another within this state; or

(2) perform any service for the control of a pest or apply any pesticide on or at the premises of another person under any commission, division of receipts or subcontracting arrangement with a licensed pesticide business.

Nothing in this subsection shall be construed to require the licensing of any person applying restricted use pesticides to the property of another as a certified private applicator or under the supervision of a certified private applicator.

(b) Application for a pesticide business license or renewal shall be made on a form obtained from the secretary and shall be accompanied by an application fee per category in which the licensee applies, and an additional fee for each uncertified individual employed by the applicant to apply pesticides. The application fee per category shall be $140 per category in which the licensee applies, except that on and after July 1, 2028, the application fee per category shall be $112 per category in which the licensee applies. An additional fee of $15 shall be paid for each uncertified individual employed by the applicant to apply pesticides, except that on and after July 1, 2028, an additional fee of $10 shall be paid for each uncertified individual employed by the applicant to apply pesticides. The application fee per category and the additional fee for each uncertified employee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee under this subsection. Any uncertified individual employed for a period of more than 10 days in a 30-day period or for five consecutive days by a licensee to apply pesticides subsequent to such application shall be reported to the secretary within 30 days of such employee's hiring and the fee shall be paid at that time. Each application shall also include the following:

(1) The business name of the person applying for such license or renewal;

(2) if the applicant is an individual, receiver, trustee, representative, agent, firm, partnership, association, corporation or other organized group of persons, whether or not incorporated, the full name of each owner of the firm or partnership or the names of the officers of the association, corporation or group;

(3) the principal business address of the applicant in the state and elsewhere; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(c) The secretary may issue a pesticide business license to apply pesticides in categories for which an applicant has applied if the applicant files the ~~bond,~~ *surety bond or certificate of liability* insurance~~, letter of credit or proof of an escrow account as~~ required under K.S.A. 2-2448, and amendments thereto, satisfies the requirements of subsection (b)~~,~~ and pays the required fees. Such license shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(d) The following persons shall be exempted from the licensing requirements of this act:

(1) State or federal personnel using pesticides or pest control services while engaged in pesticide use research;

(2) veterinarians or physicians using pesticides as a part of their professional services; and

(3) any person or such person's employee who applies pesticides on or at premises owned, leased or operated by such person.

(e) Subject to the provisions of subsection (d), it is unlawful for any governmental agency that has not been issued a government agency registration to apply pesticides within this state. *Government agency registration shall be required for pesticide applications in the sodium cyanide predator control category, and applicators in this category shall have sodium cyanide predatory control certification.* Application for government agency registration shall be made on a form obtained from the secretary and shall be accompanied by a fee fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed $50, except that on and after July 1, 2028, such fee shall not exceed $35. The governmental agency registration fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this subsection. No fee shall be required of any township located within a county that has previously applied for and received government agency registration. Each application for registration shall contain information including, but not limited to:

(1) The name of the government agency;

(2) the mailing address of the applicant;

(3) the name and mailing address of the person who heads such agency and who is authorized to receive correspondence and legal papers. Such person shall be: (A) The mayor or city manager for municipalities; (B) the chairperson of the board of county commissioners for counties; (C) the township trustee for townships; or (D) any person designated by any other governmental agency; and

(4) any other information the secretary, by rules and regulations, deems necessary for the administration of this act.

(f) If the secretary finds the application to be sufficient, the secretary shall issue a government agency registration. The government agency is not required to furnish ~~a surety bond~~ *proof of financial responsibility* under this act. Such government agency registration shall expire at the end of the calendar year for which it is issued unless it has been revoked or suspended prior thereto. If a registration is not issued as applied for, the secretary shall inform the applicant in writing of the reasons therefor.

(g) A pesticide business license or government agency registration may be renewed by meeting the same requirements as for a new license

or registration. Neither the pesticide business license nor the government agency registration shall be transferable, except that, in the event of the disability, incapacity or death of the owner, manager or legal agent of a pesticide business licensee, a permit may be issued by the secretary to permit the operation of such business until the expiration period of the license in effect at the time of such disability, incapacity or death if the applicant therefor can show that the policies and services of such business will continue substantially as before, with due regard to protection of the public and the environment.

(h) No pesticide business license may be issued to any person until such person is or has in such person's employ one or more individuals who are certified commercial applicators in each of the categories for which the license application is made.

Sec. 4. K.S.A. 2-2440b is hereby amended to read as follows: 2-2440b. (a) It shall be unlawful for any pesticide business licensee to apply pesticides for the control of wood destroying pests, structural pests, ornamental pests, turf pests or interior landscape pests unless the applicator of the pesticide is a certified commercial applicator or is a registered pest control technician, except that an uncertified ~~commercial~~ applicator may apply *general use* pesticides when either a certified applicator or registered pest control technician is physically present.

(b) *Registered pest control technicians may not supervise the use of, or apply, any restricted use pesticide unless the application is supervised by a commercial applicator who is certified to apply restricted use pesticides for the control of pests in the category or subcategory for which the pesticide application is made. The secretary may adopt rules and regulations to prescribe requirements concerning the direct supervision of registered pest control technicians by certified applicators.*

(c) Any such employee applying for a pest control technician registration shall file an application on a form prescribed by the secretary. Application for such registration shall be accompanied by an application fee established by rules and regulations adopted by the secretary, except that such fee shall not exceed $40, except that on and after July 1, 2028, such fee shall not exceed $25, and shall be reduced, but not below zero, by an amount equal to the additional fee paid under K.S.A. 2-2440(b), and amendments thereto, for such uncertified individual.

~~(c)~~*(d)* If the secretary finds the applicant qualified to be a registered pest control technician after meeting the training requirements determined by the secretary in rules and regulations, the secretary shall issue a pest control technician registration that will expire at the end of the calendar year.

~~(d)~~*(e)* This section shall be *a* part of and supplemental to the Kansas pesticide law.

Sec. 5. K.S.A. 2-2440e is hereby amended to read as follows: 2-2440e. (a) *(1)* Any pesticide business licensee or pesticide dealer who violates any ~~of the provisions~~ *provision* of ~~K.S.A. 2-2453 or 2-2454, and amendments thereto~~ *the Kansas pesticide law or any rules or regulations adopted thereunder*, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than $100 nor more than $5,000 for each violation and, in the case of a continuing violation, every day such violation continues may be deemed a separate violation. *In the case of a continuing violation, the maximum civil penalty shall not exceed $10,000.*

(2) Except as provided in paragraph (1), any person who holds a license, certification, registration or permit or is required to hold such license, certification, registration or permit pursuant to the Kansas pesticide law and violates any provision of the Kansas pesticide law or any rules and regulations adopted thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the secretary in an amount not less than $100 nor more than $500 for each violation, and in the case of a continuing violation, every day such violation continues may be deemed a separate violation. In the case of a continuing violation, the maximum civil penalty shall not exceed $2,500.

(b) ~~A duly authorized agent of~~ The secretary, ~~upon a finding that a pesticide business licensee or pesticide dealer or any employee or agent thereof or any person or entity required to be licensed as a pesticide business licensee or registered as a pesticide dealer who violates any of the provisions of K.S.A. 2-2453 and 2-2454, and amendments thereto, may impose a civil penalty as provided in this section upon such licensee or dealer~~*The secretary may impose a civil penalty as provided in this section upon a finding that a pesticide business licensee, pesticide dealer or any person has violated any provision of the Kansas pesticide law or any rules or regulations adopted thereunder.*

(c) No civil penalty shall be imposed pursuant to this section except upon the written order ~~of the duly authorized agent~~ of the secretary ~~to the pesticide business licensee or pesticide dealer who committed the violation~~. Such order shall state the violation, the penalty to be imposed and the right of such pesticide business licensee ~~or~~, pesticide dealer *or person* to appeal to the secretary. Any such ~~licensee or dealer, within 20 days after notification,~~ *pesticide business licensee, pesticide dealer or person* may make written request to the secretary for a hearing or informal conference 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 reasons therefor.~~

(d) Any *pesticide business licensee, pesticide dealer or* 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.

(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(f) This section shall be a part of and supplemental to the Kansas pesticide law.

Sec. 6. K.S.A. 2-2443a is hereby amended to read as follows: 2-2443a. (a) An applicant for a commercial applicator's certificate shall show upon written examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides in the categories or subcategories for which the applicant has applied. A commercial applicator who holds a current certificate to apply pesticides commercially in any other state or political subdivision of the United States may be exempted from examination for certification in this state upon approval of the secretary and payment of a $75 fee per category, unless a fee not to exceed $75 is established in rules and regulations adopted by the secretary.

(b) *(1) A certified commercial applicator may, at the discretion of the secretary, obtain an additional certification allowing the application of pesticides in another category or subcategory upon:*

(A) Submission of a complete and accurate application;

(B) payment of a fee of $45; and

(C) completion of a training course approved by the secretary to authorize such additional certification.

(2) The provisions of this subsection shall expire on December 31, 2028.

(c) (1) Notwithstanding any other provision of this section, except as provided by paragraph (2), commercial applicator certification shall not allow applications in the category of sodium cyanide predator control.

(2) The secretary may permit certified applicators of government agencies to obtain sodium cyanide predator control certification.

(d) Applicants shall submit with each application a fee per examination taken, including each category, subcategory and general core examination. The examination fee shall be fixed by rules and regulations adopted by the secretary, except that such fee shall not exceed $45 per examination, except that on and after July 1, 2028, such fee shall not exceed $35 per examination. Applicants who fail to pass the examination may reapply and take another examination upon paying another examination fee. Such fee shall be fixed by rules and regulations adopted by the secretary,

except that such fee shall not exceed $45 per examination, except that on and after July 1, 2028, such fee shall not exceed $35 per examination. The general core examination includes, but is not limited to, the following:

(1) The proper use of the equipment.

(2) The hazards that may be involved in applying the pesticides, including:

(A) The effect of drift of the pesticides on adjacent and nearby lands and other non-target organisms;

(B) the proper meteorological conditions for the application of pesticides and the precautions to be taken with such application;

(C) the effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;

(D) the effect of the application of pesticides to wildlife in the area, including aquatic life;

(E) the identity and classification of pesticides used and the effects of their application in particular circumstances; and

(F) the likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects and vegetation.

(3) Calculating the concentration of pesticides to be used.

(4) Identification of common pests to be controlled and damages caused by such pests.

(5) Protective clothing and respiratory equipment for handling and application of pesticides.

(6) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment ~~which~~ *that* the applicant proposes to use.

(7) Applicable state and federal pesticide laws and regulations.

(8) Any other subject ~~which~~ *that* the secretary deems necessary.

Sec. 7. K.S.A. 2-2444a is hereby amended to read as follows: 2-2444a. (a) *(1)* The categories of qualification for certification and licensing shall include:

~~(1)~~*(A)* Agricultural pest control;

~~(2)~~*(B)* forest pest control;

~~(3)~~*(C)* ornamental and turf pest control;

~~(4)~~*(D)* seed treatment;

~~(5)~~*(E)* aquatic pest control;

~~(6)~~*(F)* right-of-way pest control;

~~(7)~~*(G)* industrial, institutional, structural and health related pest control;

~~(8)~~*(H)* public health pest control;

~~(9)~~*(I)* regulatory pest control; ~~and~~

~~(10)~~*(J)* demonstration and research pest control*;*

(K) sodium cyanide predator control;
(L) aerial pest control; and
(M) soil fumigation.
(2) Sodium fluoroacetate predator control applications shall not be allowed.

(b) The secretary shall have authority to subdivide any category of qualification for certification or licensing enumerated in subsection (a) of this section in order to account for the special needs or business practices of this state. The secretary may also adopt any additional categories ~~he or she~~ *the secretary* deems necessary for any reason. Any such changes in the categories enumerated in subsection (a) shall be adopted by rules and regulations of the secretary.

Sec. 8. K.S.A. 2-2445a is hereby amended to read as follows: 2-2445a. (a) In lieu of obtaining a commercial applicator's certificate under ~~the provisions of~~ K.S.A. 2-2441a, and amendments thereto, a private applicator's certificate may be applied for by and issued to individuals *at least 18 years of age* using restricted use pesticides.

(b) Private applicator certification shall only be used for the purpose of producing any agricultural commodity on property owned or rented by the individual or such individual's employer, or on the property of another for no compensation other than the trading of personal services between producers.

(c) (1) Private applicator certification shall not authorize applications in the following categories:
(A) Sodium cyanide predator control;
(B) non-soil fumigation;
(C) aerial application; or
(D) soil fumigation.
(2) Private applicators may obtain commercial applicator certification in order to make applications in any such categories except sodium cyanide predator control.
(3) Sodium fluoroacetate predator control applications shall not be allowed.

(d) (1) A certified private applicator shall successfully pass a written examination.
(2) The secretary may adopt rules and regulations to establish a training program for initial certification as an alternative to the written examination.

(e) Such certificates shall expire on the anniversary of the individual's date of birth occurring in the fifth calendar year following the year of issue *and may be renewed for an additional five years by retaking the private applicator examination or by attending recertification training pursuant to K.S.A. 2-2446, and amendments thereto.*

(f) Restricted use pesticides may be used only by a certified applicator or by an uncertified applicator working under the direct supervision of a certified applicator. No certification shall be required hereunder for individuals operating under the *direct* supervision of a certified private applicator*, but such supervised applicators shall be at least 18 years of age. If the uncertified applicator is directly supervised by a relative or family member and is applying restricted use pesticides for the purpose of producing any agricultural commodity on property owned or leased by the individual or such individual's relative or family member, then the supervised applicator shall be at least 16 years of age*.

~~(b) (1)~~*(g)* ~~Certified~~ Private applicator ~~certificates~~ *certification* may be issued to individuals who have:~~(A)~~ *complied with all other applicable requirements and* paid a fee fixed by rules and regulations adopted by the secretary, except that on and after July 1, 2028, such fee shall not exceed $10~~;~~ and~~(B) acquired practical knowledge of pest problems, proper storage, use, handling and disposal of pesticides and pesticide containers, pertinent information found on the pesticide labels, pesticide use safety and environmental considerations, either through Kansas state university extension service educational training or through individual study of educational materials available at county extension offices or the secretary.~~

~~(2) The certified private applicator certificate fee in effect on the day preceding the effective date of this act shall continue in effect until the secretary adopts rules and regulations fixing a different fee therefor under this section. Individuals shall indicate adequate knowledge of the subjects enumerated herein by passing an open-book examination approved by the secretary.~~

~~(c) Educational materials and examination blanks shall be made available at county extension offices and at places where extension educational training is conducted. The examinations shall be scored by members of the extension or secretary's staff. If an individual passes the examination by equaling or exceeding a standard authorized by the secretary, a certified private applicator's certificate shall be issued to such individual. Such staff member shall send a copy of the certificate issued, together with the fee, to the secretary~~ *such applicators shall be subject to any testing or initial training fee established in rules and regulations adopted by the secretary, in an amount not to exceed $75.*

~~(d)~~*(h)* A certified applicator who holds ~~a~~ current ~~certificate~~ *certification* to apply pesticides as a certified private applicator in any other state or political subdivision of the United States may be exempted from examination for private applicator certification in this state upon payment of proper fees and approval by the secretary.

Sec. 9. K.S.A. 2-2446 is hereby amended to read as follows: 2-2446. (a) A commercial applicator's certification may be renewed for a succeed-

ing three-year period by paying the fees prescribed in K.S.A. 2-2441a, and amendments thereto, passing the examinations provided for in K.S.A. 2-2443a, and amendments thereto, and completing the renewal application form prescribed by the secretary.

(b) In lieu of such examinations, the secretary may accept attendance and satisfactory completion of a training course approved by the secretary. If certification is renewed by training, the renewal application form shall be accompanied by a recertification-by-training fee of $50 per category unless a fee not to exceed $50 is established in rules and regulations adopted by the secretary.

(c) A certified commercial applicator may recertify by training following the expiration of the certification period, if:

(1) All training requirements were completed during the certification period; and

(2) the renewal application form and all appropriate fees were received by the secretary on or before 30 days following expiration of the certification period.

(d) *(1)* A private applicator's certification may be renewed for a succeeding five-year period by paying the fee prescribed in K.S.A. 2-2445a, and amendments thereto, passing the examination provided for in K.S.A. 2-2445a, and amendments thereto, and completing the renewal application form prescribed by the secretary. ~~Such examination shall be offered by the secretary by mail.~~ County extension agricultural meetings shall include pertinent pesticide information for private applicators.

~~(e)~~*(2) In lieu of such private applicator examination, the secretary may accept attendance and satisfactory completion of a training course approved by the secretary pursuant to K.S.A. 2-2445a, and amendments thereto. If certification is renewed by training, the renewal application form shall be accompanied by a recertification-by-training fee of $50 unless a fee not to exceed $50 is established in rules and regulations adopted by the secretary.*

(e) A pest control technician's registration may be renewed for a succeeding one-year period by paying the fees prescribed in K.S.A. 2-2440b, and amendments thereto, completing the renewal form prescribed by the secretary, and completing any requirements concerning retraining prescribed by rules and regulations.

Sec. 10. K.S.A. 2-2448 is hereby amended to read as follows: 2-2448. (a) Except as provided by subsection (b), the secretary shall not issue a pesticide business license until the applicant has furnished proof of financial responsibility by one of the following:

(1) A surety bond in an amount not less than $6,000 per year. The bond shall be executed by a corporate surety and *shall* state the effective date and the expiration date. The surety bond shall be executed on a form

approved by the secretary. The applicant shall be named as the principal in the bond. Such bond shall be to the state of Kansas and shall be conditioned upon compliance by the principal and by the principal's officers, agents, representatives and employees, with the provisions of this act and ~~acts amendatory thereof and supplemental~~ *amendments* thereto. It shall be unlawful for any licensed person to use the words "bond" or "bonded" in advertising or ~~in~~ publicizing such person's operations in connection with the application of pesticides unless such bond is a performance bond and ~~that fact~~ *such designation* and the amount of such bond are specified.

(2) A certificate of liability insurance. The certificate of liability insurance shall be executed by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b, and amendments thereto, and shall state the effective date and the expiration date of the policy. Such liability insurance shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216, and amendments thereto, except as authorized by K.S.A. 40-246b, and amendments thereto. The liability insurance policy shall provide: (A) Coverage for not less than $25,000 for bodily injury liability for each occurrence; and (B) coverage for not less than $5,000 for property damage liability for each occurrence. In addition to the coverage specified above, if the applicant for a pesticide business license is an aerial applicator, the liability insurance policy shall provide coverage for any pesticide such applicant will be applying and for comprehensive chemical coverage. Pesticide application equipment, if required to be registered under K.S.A. 2-2456, and amendments thereto, shall be covered. The insurer shall notify the secretary, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as a prerequisite of licensure, not later than 10 days before the expiration, reduction or cancellation takes effect. Upon expiration, reduction or cancellation of the liability insurance, the secretary shall suspend such pesticide applicator's business license until the insurance requirement is met by the licensee for the current license period. The certificate shall be executed on a form approved by the secretary.

~~(3) A $6,000 letter of credit from a Kansas financial institution, as defined in K.S.A. 16-117, and amendments thereto. The letter of credit shall be executed on a form approved by the secretary. The letter of credit shall state the effective date and the expiration date and shall be valid through the term of the applicant's business license. Upon cancellation of the letter of credit, the secretary shall suspend such pesticide applicator's business license until the letter of credit requirement is met by the licensee for the current license period.~~

~~(4) Maintaining a minimum balance of $6,000 in an escrow account in a Kansas financial institution as defined in K.S.A. 16-117, and amend-~~

~~ments thereto. The escrow account shall maintain the minimum balance through the term of the applicant's business license. The secretary shall be notified in writing by the financial institution within 10 days if the amount in the escrow account falls below the $6,000 minimum balance. Upon notification, the secretary shall suspend such pesticide applicator's business license until the escrow account minimum balance is at $6,000.~~

~~(b) Before June 1, 1994, the financial responsibility and proof of financial responsibility required pursuant to this section prior to March 1, 1994, shall continue to apply to any pesticide business holding a valid pesticide business license on February 28, 1994, and no different or additional financial responsibility or proof of financial responsibility shall be required of such business. On or before June 1, 1994, each pesticide business licensed before March 1, 1994, shall furnish to the secretary proof of financial responsibility conforming to the requirements of this section as amended by this act.~~

~~(c) The requirements of this section as amended by this act shall apply to any applicant applying for an original pesticide business license on or after March 1, 1994, and no different or additional financial responsibility or proof of financial responsibility shall be required of such applicant.~~

(b) (1) Prior to January 1, 2025, any existing proof of financial responsibility that has been properly filed with the secretary and remains valid shall fulfill the proof of financial responsibility requirements of the Kansas pesticide law.

(2) On and after January 1, 2025, pesticide business licensees and applicants shall have a certificate of liability insurance or surety bond properly filed with the secretary in accordance with the provisions of this section to fulfill the proof of financial responsibility requirements of the Kansas pesticide law.

Sec. 11. K.S.A. 2-2449 is hereby amended to read as follows: 2-2449. The secretary may deny, suspend, revoke or modify the provisions of any license, registration, permit or certificate issued under this act, if the secretary finds, after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act, that the applicant, licensee, registrant, permit holder or certificate holder has:

(a) Been convicted of or pleaded guilty to a violation of this act~~, or been convicted of or pleaded guilty to a felony under the laws of this state or of the United States, if the secretary determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust~~;

(b) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder~~,~~ or any of the laws or rules and regulations of any other state or the United States relating to licensing or other provisions concerning pesticide use or control; or

(c) had any license, certificate, registration or permit issued to the person under this act, or the pest control or pesticide use laws of any other state revoked.

Sec. 12. K.S.A. 2-2450 is hereby amended to read as follows: 2-2450. (a) If the surety bond~~,~~ *or* certificate of liability insurance~~, letter of credit or proof of an escrow account~~ previously furnished by the licensee expires or is canceled or terminated, the secretary shall suspend without a hearing the pesticide business license until an acceptable substitute surety bond~~,~~ ~~letter of credit, proof of an escrow account~~ or *a* certificate establishing acceptable replacement of liability insurance is supplied.

(b) If the pesticide business fails to employ one or more commercial applicators certified in each category and subcategory in which the pesticide business makes commercial pesticide applications, the secretary may suspend, without a hearing, the pesticide business license for that category until the pesticide business employs a commercial applicator with the appropriate certification.

Sec. 13. K.S.A. 2-2455 is hereby amended to read as follows: 2-2455. (a) Each pesticide business shall present to each customer for whom such business performs a pest control service involving the application of pesticides a statement of services or contract setting forth the following information:

(1) Business name ~~and~~, address *and license number* of the pesticide business licensee;

(2) name and address of the customer;

(3) pest or pests to be controlled, which may be stated in general terms;

(4) pesticide to be used including the quantity applied and total area to which the pesticide is applied;

(5) the concentration or rate of application, when applicable;

(6) the date ~~and~~, location *and start and end time* of the application of the pesticide;

(7) the expiration date of all guarantees, if any be given;

(8) the signature *and applicator certification number* of the individual who performed the pest control service or the application of pesticides;

(9) the signature *and applicator certification number* of the individual who supervised the performance of the pest control service or the application of pesticides, when applicable;

(10) the wind direction and velocity, when applicable; and

(11) that the application was less than label rate, when applicable.

(b) Whenever the service involving the application of pesticides is performed for the purpose of controlling termites, powder-post beetles, wood borers, wood-rot fungus or any other wood destroying pest, the following information shall be included in addition to that required under subsection (a):

(1) The conditions under which retreatments, if any are to be made;

(2) the approximate date or dates of inspections, for any to be made after the original application of the pesticide; and

(3) a diagram of the structure to be treated, showing the location of visible evidence of active and inactive infestations by any wood destroying pest or pests for which the treatment is proposed; where a partial or spot treatment is to be made, this diagram shall also show the area or areas of the structure ~~which~~ *that* are to be treated.

(c) (1) The required statement of services or contract for services involving the application of pesticides may be incorporated into any business form used by the pesticide business licensee.

(2) The statement of services or contract shall be presented to the customer in paper format, unless the customer agrees to receive all or part of the statement of services or contract in electronic format.

(3) The pesticide business licensee shall present the statement of services or contract to the customer within 30 days of when the pest control services were provided and prior to the due date for payment of the services, if the services are not a prepaid agreement. Upon the customer's request, the statement of services or contract shall be presented to the customer no later than the close of business on the business day following the request.

(4) Upon request of the secretary or the secretary's designee, a duplicate of the statement of services or contract provided to the customer shall be made available within two business days to the secretary or the secretary's designee.

(5) Any pesticide business licensee using aerial methods of applying pesticides may present such information at any time prior to the time payment is accepted.

(6) The statement of services or contract may be signed using the legible printed names of the individuals who performed and, when applicable, supervised the performance of the pest control service or the application of pesticide.

(7) The pesticide business licensee shall retain a copy of each statement of services or contract in such licensee's files for a period of three years from the expiration date of any statement of services or contract.

(8) Each pesticide business licensee shall faithfully carry out the stipulations set forth in any statement of services or contract prepared by such licensee or any of its representatives.

(d) Each pesticide business licensee shall make available to the secretary upon request, a copy of any statement of services or contract, records of all pesticide applications during any specified period, records of all employees who performed any service involving, or in conjunction with, the application of pesticides and any other requested information pertinent to

the administration of this act or any rule or regulation adopted hereunder by the secretary.

(e) *(1) Each government agency shall maintain records relating to each application of pesticide made by such government agency.*

(2) Such records shall be provided to the secretary upon request.

(3) Such records shall include the following information:

(A) The name, complete street address and registration number of the government agency;

(B) the pest or pests to be controlled, which may be stated in general terms;

(C) the pesticide to be used, including the quantity applied and total area where the pesticide is applied;

(D) the concentration or rate of application, when applicable;

(E) the date, location and start and end time of the application of the pesticide;

(F) the signature and applicator certification number of the individual who performed the pest control service or the application of pesticides;

(G) the signature and applicator certification number of the individual who supervised the performance of the pest control service or the application of pesticides, when applicable;

(H) the wind direction and velocity, when applicable;

(I) that the application was less than label rate, when applicable;

(J) the complete product name of the pesticide as the name appears on the label; and

(K) the pesticide EPA registration number.

(f) Pesticide business licensees and government agencies shall create or verify the existence of records documenting that each uncertified applicator has the necessary qualifications as set forth in rules and regulations adopted by the secretary.

(g) The secretary shall require certified commercial applicators who are not employed by or otherwise acting for a *pesticide* business licensee to maintain records concerning applications of ~~restricted use~~ pesticides. The secretary shall specify by rules and regulations the information to be contained in such records~~, which~~. *Such records* shall be maintained for three years from the date of application of the pesticide concerned. Such records shall be open to inspection by the secretary or the secretary's designee during normal business hours, and copies shall be furnished to the secretary or the secretary's designee upon request.

Sec. 14. K.S.A. 2-2461 is hereby amended to read as follows: 2-2461. (a) Any person ~~other than a certified private applicator~~ violating or failing to comply with any provision of this act or any authorized rule or regulation of the secretary shall be deemed guilty of a class A misdemeanor. Each separate violation shall constitute a separate offense.

(b) ~~Any certified private applicator who violates any of the provisions of this act or any authorized rules and regulations of the secretary shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than $100 and not more than $500. Each day of operation after notice shall constitute a separate offense.~~

~~(c)~~ The district courts of Kansas shall have jurisdiction to restrain violations of this act by injunction without the institution of criminal proceedings. ~~Said~~ *Such* injunction shall be issued without bond.

Sec. 15. K.S.A. 2-2467a is hereby amended to read as follows: 2-2467a. The secretary is hereby authorized to promulgate and adopt rules and regulations for the administration of this act ~~and concerning the following matters which include, but are~~, *including, but* not limited to:

(a) The designation of certain pesticides as restricted use pesticides as provided in K.S.A. 2-2439, and amendments thereto;

(b) the designation of categories for the issuance of pesticide business licenses as provided in K.S.A. 2-2444a, and amendments thereto;

(c) the designation of categories for the certification of applicators as provided in K.S.A. 2-2444a, and amendments thereto;

(d) the designation of training requirements for those persons applying for a pest control technician's registration as provided in K.S.A. 2-2440b, and amendments thereto;

(e) the registration and identification of equipment used in the commercial application of pesticides as provided in K.S.A. 2-2456, and amendments thereto;

(f) the storing and discarding of pesticides, pesticide materials, pesticide rinsates and pesticide containers;

(g) proper health and safety precautions;

(h) proof of financial responsibility, including acceptable surety bond~~,~~ *or* liability insurance coverage~~, letter of credit or proof of an escrow account~~;

(i) furnishing of reports and information necessary for the secretary to carry out the provisions of this act;~~ and~~

(j) imposing limitations on the use of any pesticide in a manner inconsistent with its label or labeling, pursuant to K.S.A. 2-2471, and amendments thereto; and

(k) any procedural or other matters related to the designation of pesticide management areas.

Sec. 16. K.S.A. 2-3310 is hereby amended to read as follows: 2-3310. The secretary, after notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, may deny, suspend, revoke or modify the provisions of any permit issued under this act, if the secretary finds that the applicant, registrant or permit holder has:

(a) Been convicted of or pleaded guilty to a violation of this act or the Kansas pesticide law~~, or has been convicted of or pleaded guilty to a felony under the laws of this state or of the United States, if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust~~;

(b) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder; or

(c) had any certificate, registration or permit issued under this act or the Kansas pesticide law revoked.

Sec. 17. K.S.A. 2-2438a, 2-2440, 2-2440b, 2-2440e, 2-2443a, 2-2444a, 2-2445a, 2-2446, 2-2448, 2-2449, 2-2450, 2-2455, 2-2461, 2-2467a and 2-3310 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 18, 2024.

CHAPTER 56

HOUSE BILL No. 2481

AN ACT concerning transportation; relating to commemorative designations; designating portions of K-96 highway as the PFC Henry Lee Fisher memorial highway and the 96th Infantry Division memorial highway; designating bridge No. 160-96-293.72 in Sumner county as the SrA Derek Scott Martin memorial bridge; designating a portion of United States highway 69 as the Ken W Brock memorial highway; designating a portion of United States highway 81 as the Merle Miller memorial highway; designating a portion of United States highway 281 as the first responders memorial highway; redesignating a current portion of the American Legion memorial highway for United States highway 281; redesignating a current portion of the Frank Carlson memorial highway for United States highway 81; designating the Atchison, Topeka and Santa Fe #3415 as the official state steam locomotive and the Abilene & Smoky Valley Railroad as the official state heritage railroad; amending K.S.A. 68-1011, 68-1036 and 68-1044 and repealing the existing sections.

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

New Section 1. The portion of K-96 highway from the eastern city limits of Haven to the western city limits of Haven in Reno County is hereby designated as the PFC Henry Lee Fisher memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate that the highway is the PFC Henry Lee Fisher memorial highway.

New Sec. 2. The portion of K-96 highway from its junction with 56th avenue then northwest on K-96 highway to its junction with Nickerson road in Reno county is hereby designated as the 96th Infantry Division memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate that the highway is the 96th Infantry Division memorial highway.

New Sec. 3. Bridge No. 160-96-293.72 located on United States highway 160 in Sumner county is hereby designated as the SrA Derek Scott Martin 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 such bridge is the SrA Derek Scott Martin memorial bridge.

New Sec. 4. The portion of United States highway 69 from the junction of United States highway 69 and grand road in Bourbon county, then south on United States highway 69 to the junction of United States highway 69 and east 650th avenue in Crawford county is hereby designated as the Ken W Brock 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 Ken W Brock memorial highway.

New Sec. 5. The portion of United States highway 81 where it enters the state on the Kansas-Nebraska line, then south on United States highway 81 to the southern border of Republic county is hereby designated as the Merle Miller 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 Merle Miller memorial highway.

New Sec. 6. The portion of United States highway 281 from the southern city limits of Russell, then north to its junction with K-18 highway in Russell county is hereby designated as the first responders memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate that the highway is the first responders memorial highway.

New Sec. 7. The Atchison, Topeka and Santa Fe #3415 Pacific class 4-6-2, built in 1919, is hereby designated as the official steam locomotive of the state of Kansas.

New Sec. 8. The Abilene & Smoky Valley Railroad is hereby designated as the official heritage railroad of the state of Kansas.

Sec. 9. K.S.A. 68-1011 is hereby amended to read as follows: 68-1011. The portion of United States highway ~~no.~~ 281 traversing this state where it crosses the Nebraska-Kansas boundary line on the north to the *junction of United States highway 281 and K-18 highway, then from the southern city limits of Russell to the* point where it leaves the state on the south at the Kansas-Oklahoma boundary line, be and it is hereby designated as "the American Legion memorial highway" in the state of Kansas.

Sec. 10. K.S.A. 68-1036 is hereby amended to read as follows: 68-1036. The portion of United States highway 81 ~~where it enters the state on the Kansas-Nebraska line on the north thence south~~ *from the northern border of Cloud county, then south on United States highway 81* to the junction of interstate highway I-70 is hereby designated the Frank Carlson memorial highway. The secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate the highway is the Frank Carlson memorial highway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs.

Sec. 11. K.S.A. 68-1044 is hereby amended to read as follows: 68-1044. K-96 highway northwest from the eastern city limits of the city of Mount Hope, then west to the *eastern* city limits of the city of *Haven, then west from the western city limits of Haven to the city limits of* Hutchinson is hereby designated as the state fair freeway. The secretary of transpor-

tation shall place markers along the highway right-of-way at proper intervals to indicate that the highway is the state fair freeway. The secretary of transportation may accept and administer gifts and donations to aid in obtaining suitable highway signs bearing the proper approved inscription.

Sec. 12. K.S.A. 68-1011, 68-1036 and 68-1044 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 18, 2024.

CHAPTER 57

HOUSE BILL No. 2498

AN ACT concerning public use general aviation airports; increasing the transfer from the state highway fund to the public use general aviation airport development fund; amending K.S.A. 2023 Supp. 75-5061 and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 75-5061 is hereby amended to read as follows: 75-5061. (a) The secretary of transportation is hereby authorized and empowered to: (1) Solicit and receive moneys from any public or private sources; and (2) establish and administer a grant program for public use general aviation airports for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of such public use general aviation airports.

(b) Such grants shall be made upon such terms and conditions as the secretary deems appropriate, and such grants shall be made from funds credited to the public use general aviation airport development fund.

(c) The public use general aviation airport development fund is hereby established in the state treasury which shall be for the purpose of planning, constructing, reconstructing or rehabilitating the facilities of public use general aviation airports pursuant to subsection (a) of this section. All moneys received pursuant to subsection (a) shall be remitted to the state treasurer at least monthly and deposited in the state treasury to the credit of the public use general aviation airport development fund. The secretary shall administer the public use general aviation airport development fund. All expenditures from the public use general aviation airport development fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

(d) ~~(1) On July 1, 1999, and each July 1 thereafter through July 1, 2012, the director of accounts and reports shall transfer $3,000,000 from the state highway fund to the public use general aviation airport development fund.~~

~~(2)~~ On July 1, ~~2013~~ *2024*, and each July 1 thereafter, the director of accounts and reports shall transfer ~~$5,000,000~~ *$15,000,000* from the state highway fund to the public use general aviation airport development fund. The secretary is hereby authorized to transfer additional moneys to the public use general aviation airport development fund from the state highway fund, and moneys from the public use general aviation airport development fund to the state highway fund. In no event shall the amount remaining in the public use general aviation airport development fund

and the amount spent or dedicated for grants in each fiscal year be less than ~~$5,000,000~~ *$15,000,000*.

(e) As used in this section, "public use general aviation airport" means any airport available for use by the general public for the landing and taking off of aircraft, but shall not include any airport classified as a primary airport by the federal aviation administration.

(f) The secretary may adopt rules and regulations for the purpose of implementing the provisions of this section.

Sec. 2. K.S.A. 2023 Supp. 75-5061 is hereby repealed.

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

Approved April 18, 2024.

CHAPTER 58

HOUSE BILL No. 2588*

AN ACT concerning counties; relating to the public right-of-way; authorizing telecommunication, broadband and video service providers to operate in county public right-of-way; limiting the fees and costs that a county may impose upon such providers for such activities.

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

Section 1. (a) The Kansas legislature finds and declares that:

(1) The permitting, construction, modification, maintenance and operation of telecommunications facilities are critical to ensuring that all citizens in the state have true access to broadband and other advanced technology and information;

(2) telecommunications facilities are critical to ensuring that businesses and schools throughout the state remain competitive in the global economy;

(3) telecommunications facilities that enable broadband services have a significant economic benefit; and

(4) the permitting, construction, modification, maintenance and operation of telecommunications facilities, to the extent specified in this section, are declared to be matters of statewide concern and interest.

(b) As used in this section:

(1) "Public right-of-way" means only the area of real property in which a county has a dedicated or acquired right-of-way interest in the real property. "Public right-of-way" includes the area on, below or above the present and future streets, roads, highways, parkways or boulevards dedicated or acquired as right-of-way by a county. "Public right-of-way" does not include:

(A) The airwaves above a "public right-of-way" with respect to wireless telecommunications or other non-wire telecommunications or broadcast services;

(B) easements obtained by utilities or private easements; or

(C) any real property, structures or facilities under the ownership, control or jurisdiction of the secretary of transportation.

(2) "Provider" means a local exchange carrier or telecommunications carrier as such terms are defined in K.S.A. 66-1,187 and amendments thereto, or a video service provider as defined in K.S.A. 12-2022, and amendments thereto. "Provider" does not include an applicant as defined in K.S.A. 66-2019, and amendments thereto.

(c) Without abrogating any rights held by a video service provider pursuant to a state-issued video service authorization, any provider shall have the right pursuant to this section to construct, maintain and operate poles, conduit, cable, switches and related appurtenances and facilities

along, across, upon and under any public right-of-way in this state. Such poles, conduit, cable, switches and related appurtenances and facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or the legal use by other utilities or providers.

(d) A county shall impose any and all public right-of-way access and permit processes in a nondiscriminatory and competitively neutral manner to all similarly situated providers, including, but not limited to:

(1) The permit fees charged by the county;

(2) the forms and filings required by the county for a permit application;

(3) the time with which a county may approve or deny a permit; and

(4) options for waivers regarding such permit fees, forms and filings.

(e) No county shall create, enact or erect any discriminatory, unreasonable condition, requirement or barrier for entry into or use of the public right-of-way by a provider.

(f) A county may only assess the following non-discriminatory and competitively neutral fees against a provider, for the administration and orderly use of the public right-of-way, provided that such fees reimburse the county for the county's reasonable, actual and verifiable costs of managing the public right-of-way:

(1) A construction permit fee charged in connection with issuing a construction permit to set fixtures in the public right-of-way that compensates the county for the reasonable administrative expenses incurred by the county for issuing, processing and verifying the permit application;

(2) an excavation permit fee for each pavement cut to recover the direct and reasonable costs associated with construction and repair activity of the provider. Any excavation permit fee imposed by the county shall be based upon a regional specific or other appropriate study establishing the basis for such costs that takes into account the life of the county road or highway prior to the construction or repair activity and the remaining life of the road or highway. Such excavation permit fee shall be expressly limited to the proportion of the cost attributable to the activity of the provider that results in an actual pavement cut; and

(3) inspection fees to recover all reasonable costs associated with a county's inspection of the work of the provider in the right-of-way.

(g) A county shall authorize any video service provider as defined in K.S.A. 12-2022, and amendments thereto, to offset any fees and charges imposed pursuant to this section against payment of any video service provider fee imposed pursuant to K.S.A. 12-2024, and amendments thereto.

(h) A county may assess against a provider costs associated with repairing and restoring the public right-of-way because of damage caused by the provider, its assigns, contractors or subcontractors, or both, in the public right-of-way. A county may require a provider to furnish a perfor-

mance bond, in a form acceptable to the county, from a surety licensed to conduct surety business in the state of Kansas, to ensure appropriate and timely performance in the construction and maintenance of facilities located in the public right-of-way.

(i) A county may not assess any additional fees or costs against providers for use or occupancy of the public right-of-way other than those specified in this section. Any fees or costs imposed pursuant to this section shall be imposed upon all such providers in a nondiscriminatory and competitively neutral manner.

(j) Upon request by a provider, a county shall, in a timely manner, provide an accounting for the reasonable, actual and verifiable costs that are the basis for any fee permitted in subsection (f).

(k) This section may not be construed to affect any valid taxation of a provider's facilities or services.

(l) Any ordinance enacted prior to the effective date of this act governing the use and occupancy of the public right-of-way by a provider shall not conflict with the provisions of this section.

(m) No provider shall enter into a contract or any other agreement with a county to sell or provide a product or service that the provider's business does not actually sell or provide.

(n) Any county or provider may bring an action in a court of competent jurisdiction to enforce the provisions of this act.

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

Approved April 18, 2024.

CHAPTER 59

Senate Substitute for HOUSE BILL No. 2124

AN ACT concerning alcoholic liquor; relating to microbreweries; directing the secretary of revenue to study the collection and remittance of alcoholic liquor enforcement tax by microbreweries; directing the director of alcoholic beverage control to study the collection and remittance of alcoholic liquor gallonage tax by microbreweries; permitting the sale of beer and hard cider manufactured by the licensee to retailers, public venues, clubs, drinking establishments, holders of temporary permits and caterers; allowing the sale of such beer and hard cider in unopened containers to consumers at special events monitored and regulated by the division of alcoholic beverage control; amending K.S.A. 41-308b, 41-410, 41-601, 41-701, 41-702, 41-703, 41-706, 41-708, 41-709, 41-728, 41-1101, 41-1202 and 41-2642 and K.S.A. 2023 Supp. 41-1201 and repealing the existing sections.

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

New Section 1. (a) The secretary of revenue shall conduct a study on licensed microbrewery compliance with state laws and rules and regulations governing the collection and remittance of alcoholic liquor enforcement taxes. On or before January 15, 2025, the secretary shall prepare and submit a report to the governor and the legislature on the findings of such study, including any recommendations regarding such collection and remittance, the monitoring thereof and ensuring compliance with applicable laws and rules and regulations.

(b) The director of alcoholic beverage control shall conduct a study on licensed microbrewery compliance with state laws and rules and regulations governing the collection and remittance of alcoholic liquor gallonage taxes. On or before January 15, 2025, the director shall prepare and submit a report to the governor and the legislature on the findings of such study, including any recommendations regarding such collection and remittance, the monitoring thereof and ensuring compliance with applicable laws and rules and regulations.

(c) This section shall expire on July 1, 2025.

Sec. 2. K.S.A. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than ~~60,000~~ *30,000* barrels of domestic beer during the calendar year and the storage thereof, if, however, the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such licensees with such common ownership shall not exceed the ~~60,000~~ *30,000* barrel limit;

(2) the manufacture in the aggregate of not more than 100,000 gallons of hard cider during the calendar year and the storage thereof;

(3) *(A)* the sale to *licensed* beer distributors of beer ~~and~~ *manufactured by the licensee;*

(B) the sale to *licensed* wine distributors of hard cider~~,~~ manufactured by the licensee; *and*

(C) the sale to retailers, public venues, clubs, drinking establishments, caterers and temporary permit holders of beer and hard cider manufactured by the licensee. The aggregate annual sales of such beer made pursuant to this subparagraph shall not exceed 1,000 barrels. The aggregate annual sales of such hard cider made pursuant to this subparagraph shall not exceed 3,000 gallons;

(4) the sale, *both* on the licensed premises *and off the licensed premises at special events monitored and regulated by the division of alcoholic beverage control* in the original unopened container to consumers for consumption off the licensed premises, of beer and hard cider manufactured by the licensee;

(5) the sale, on the licensed premises in refillable and sealable containers to consumers for consumption off the licensed premises, of beer manufactured by the licensee, subject to the following conditions:

(A) Containers described in this paragraph shall contain not less than 32 fluid ounces and not more than 64 fluid ounces of beer; and

(B) the licensee shall affix a label to all containers sold pursuant to this paragraph clearly indicating the licensee's name and the name and type of beer contained in such container;

(6) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer and hard cider manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(7) if the premises is also licensed as a club or drinking establishment, the sale and transfer of domestic beer to such club or drinking establishment and the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(8) if the premises is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act;

(9) if the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, the domestic beer may be manufactured and transferred for sale or storage among such microbrewery licensees with such common ownership; and

(10) the transfer of beer and hard cider manufactured by the licensee pursuant to a contract entered into in accordance with subsection (b) to the contracting microbrewery.

(b) (1) A microbrewery may contract with one or more microbreweries for the purpose of manufacturing beer or hard cider for such other

microbreweries. A microbrewery located in this state may manufacture and package beer and hard cider for a microbrewery located within or outside of Kansas.

(2) A microbrewery manufacturing beer or hard cider for another microbrewery shall be responsible for complying with all federal and state laws dealing with the manufacturing of beer and hard cider, including labeling laws, and shall be responsible for the payment of all federal and state taxes on the beer and hard cider.

(3) Each party engaged in a contract brewing agreement must count the total amount of barrels and gallons manufactured as part of the agreement and include that total amount as part of their allowed aggregate total as provided in subsection (a).

(c) ~~(1) Not less than 30% of the products utilized in the manufacture of hard cider by a microbrewery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The production requirement of this subsection shall be determined based on the annual production of domestic hard cider.~~

~~(2) On and after July 1, 2021, the percentage of products utilized in the manufacture of hard cider by a microbrewery required to be grown in Kansas shall be not less than 15%.~~

~~(3) The provisions of this subsection shall expire on January 1, 2023.~~

~~(d)~~ *The limit on aggregate annual sales of beer and hard cider as specified in subsection (a)(3)(C) shall not apply to the distribution of beer or hard cider by the microbrewery licensee to:*

(1) A drinking establishment or caterer licensed under the club and drinking establishment act if such microbrewery licensee holds a 25% or greater ownership interest in such drinking establishment or caterer; or

(2) another microbrewery licensee or a licensed microbrewery packaging and warehousing facility if such microbrewery licensee holds a 25% or greater ownership interest in such microbrewery licensee or microbrewery packaging and warehousing facility.

(d) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer and hard cider manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of any microbrewery of such licensee, of beer manufactured by the licensee;

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler; and

(4) the removal from the licensed premises of the microbrewery packaging and warehousing facility of hard cider manufactured by the licensee for the purpose of delivery to a licensed wine distributor.

(e) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(f) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(g) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(h) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(i) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 3. K.S.A. 41-410 is hereby amended to read as follows: 41-410. (a) No distributor shall sell any alcoholic liquor or cereal malt beverage in this state unless such distributor has filed with the director a written notice stating each geographic territory, agreed upon in writing between the distributor and a supplier of the distributor, within which the distributor sells one or more brands of such supplier to retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, or to clubs or drinking establishments licensed under the club and drinking establishment act. Such notice shall be accompanied by a map outlining each geographic territory stated in the notice. No manufacturer, importer or other supplier shall grant a franchise for the distribution of a brand to more than one distributor for all or part of any designated territory.

(b) Each supplier of alcoholic liquor or cereal malt beverage doing business within this state shall file with the director a written notice describing each geographic territory, agreed upon in writing between the supplier and a distributor, within which the distributor sells one or more brands of the supplier to retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, or to clubs or drinking establishments licensed under the club and drinking establishment act.

(c) No supplier or distributor shall terminate or modify a franchise for the distribution of a brand of alcoholic liquor or cereal malt beverage or alter the geographic territory designated in a franchise agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. In the case of an alteration in a franchise territory, such notice shall be accompanied by a map outlining the altered territory. Upon receipt of such notice, the director shall notify immediately, by certified mail, all affected parties of the impending termination, modification or alteration.

(d) Any notice filed by a supplier pursuant to subsection (c) shall be accompanied by an affidavit stating that the termination, modification or alteration is not caused by the failure of the distributor to violate any provision of the Kansas liquor control act or any rules and regulations adopted pursuant thereto.

(e) Any supplier or distributor aggrieved by a termination, modification or alteration made under subsection (c) may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or alteration violates the franchise agreement between the supplier and distributor involved.

(f) No franchise agreement for the distribution of a brand of alcoholic liquor or cereal malt beverage shall be terminated or modified, nor shall the territory designated in such an agreement be altered, except for reasonable cause.

(g) *No microbrewery shall sell beer or hard cider produced by such microbrewery to retailers licensed under the Kansas liquor control act or the Kansas cereal malt beverage act or to any licensee under the club and drinking establishment act unless such microbrewery has filed a written notice with the director stating the geographic territory within which such sales are made.*

(h) This section shall be *a* part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 41-601 is hereby amended to read as follows: 41-601. Every manufacturer, distributor, microbrewery ~~which~~ *that* sells any beer to a beer distributor at wholesale, microdistillery ~~which~~ *that* sells any spirits to a spirits distributor at wholesale and farm winery ~~which~~ *that* sells any wine to a distributor at wholesale shall between the 1st and 15th day of each calendar month, make return under oath to the director of all alcoholic liquor manufactured and sold by the manufacturer, distributor, microbrewery, microdistillery or farm winery in the course of business during the preceding calendar month. In the case of a distributor *or microbrewery*, the return shall also show: (a) The total amount of liquor purchased by the distributor *or microbrewery* during the preceding calendar month, the names of the distillers or distributors from whom purchased, the quantity of each brand and the price paid therefor; and (b) the names and locations of the retailers to whom alcoholic liquor was sold by the distributor *or microbrewery* during the preceding calendar month, the quantity of each brand and the price charged therefor. The return shall be made upon forms prescribed and furnished by the director and shall contain such other information as the director reasonably requires.

Sec. 5. K.S.A. 41-701 is hereby amended to read as follows: 41-701. (a) Except as provided in subsection ~~(d)~~ *(e)*, no spirits distributor shall sell or attempt to sell any spirits within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed spirits distributor; or

(2) a licensed retailer, as authorized by K.S.A. 41-306, and amendments thereto.

(b) Except as provided in subsection ~~(d)~~ *(e)*, no wine distributor shall sell or attempt to sell any wine within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed wine distributor;

(2) a licensed caterer; or

(3) a retailer, public venue, club or drinking establishment, licensed in this state, as authorized by K.S.A. 41-306a, and amendments thereto.

(c) Except as provided by subsection ~~(d)~~ *(e)*, no beer distributor shall sell or attempt to sell any beer or cereal malt beverage within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed beer distributor;

(2) a licensed caterer; or

(3) a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, or a club or drinking establishment, licensed in this state, as authorized by K.S.A. 41-307, and amendments thereto.

(d) *Except as provided in K.S.A. 41-308b, and amendments thereto, and subsection (e), no microbrewery shall sell or attempt to sell any beer or hard cider within this state except to:*

(1) A retailer licensed under the Kansas liquor control act or the Kansas cereal malt beverage act; or

(2) a licensee under the club and drinking establishment act.

(e) (1) If any spirits distributor refuses to sell spirits ~~which~~ *that* such distributor is authorized to sell or refuses to provide any service in connection therewith to any licensed retailer as authorized by K.S.A. 41-306, and amendments thereto, it shall be lawful for any other licensed spirits distributor to sell such spirits to such retailer.

(2) If any wine distributor refuses to sell wine ~~which~~ *that* such distributor is authorized to sell or refuses to furnish service in connection therewith to any licensed retailer, as authorized by K.S.A. 41-306a, and amendments thereto, it shall be lawful for any other licensed wine distributor to sell such wine to such retailer.

(3) If any beer distributor refuses to sell beer or cereal malt beverage ~~which~~ *that* such distributor is authorized to sell or provide service in connection therewith to any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, as authorized by K.S.A. 41-307, and amendments thereto, it shall be lawful for any other licensed beer distributor *or microbrewery* to sell such beer or cereal malt beverage to such retailer.

(e) No manufacturer of alcoholic liquor or cereal malt beverage shall sell or attempt to sell any alcoholic liquor or cereal malt beverage within this state except to a licensed manufacturer, licensed distributor or licensed nonbeverage user.

(f) No supplier, wholesaler, distributor, *microbrewery,* manufacturer or importer shall by oral or written contract or agreement, expressly or impliedly fix, maintain, coerce or control the resale price of alcoholic liquor, beer or cereal malt beverage to be resold by such wholesaler, distributor, *microbrewery,* manufacturer or importer.

(g) Any supplier, wholesaler, distributor, *microbrewery* or manufacturer violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $500 and not more than $1,000, to which may be added not to exceed six months' imprisonment. In addition, any supplier, wholesaler,

distributor, *microbrewery,* manufacturer or importer violating the provisions of this section relating to fixing, maintaining or controlling the resale price of alcoholic liquor, beer or cereal malt beverage shall be liable in a civil action to treble the amount of any damages awarded plus reasonable attorney fees for the damaged party.

Sec. 6. K.S.A. 41-702 is hereby amended to read as follows: 41-702. (a) Except to the extent permitted pursuant to K.S.A. 41-703, and amendments thereto, no licensed retailer, club, drinking establishment or caterer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from: (1) Any manufacturer ~~or~~, distributor *or microbrewery*; (2) any person connected with, in any way representing or a member of the family of a manufacturer ~~or~~, distributor *or microbrewery*; (3) any stockholders in a manufacturer ~~or~~, distributor *or microbrewery*; or (4) any officer, manager, agent or representative of a manufacturer ~~or~~, distributor *or microbrewery*.

(b) Except to the extent permitted pursuant to K.S.A. 41-703, and amendments thereto, no manufacturer ~~or~~, distributor *or microbrewery* shall give or lend money or anything of value or otherwise loan or extend credit, directly or indirectly, to any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, or to any licensed club, drinking establishment or caterer, or to the manager, representative, agent, officer or director thereof.

(c) If any licensed retailer, distributor, manufacturer, *microbrewery,* club, drinking establishment or caterer violates any provision of this section, the license of such retailer, distributor, manufacturer, *microbrewery,* club, drinking establishment or caterer shall be suspended or revoked by the director in the manner provided by law for revocation or suspension for other violations of this act.

Sec. 7. K.S.A. 41-703 is hereby amended to read as follows: 41-703. (a) Except as provided by subsection (d), no manufacturer ~~or~~, distributor *or microbrewery* shall directly or indirectly: (1) Sell, supply, furnish, give, pay for, loan or lease any furnishing, fixture or equipment on the premises of a place of business of a licensee under the club and drinking establishment act or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto; (2) pay for any such licensee's or retailer's license, or advance, furnish, lend or give money for payment of such license; (3) purchase or become the owner of any note, mortgage or other evidence of indebtedness of any such licensee or retailer or any form of security therefor; (4) be interested in the ownership, conduct or operation of the business of any such licensee or retailer; or (5) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in the licensed premises of any such licensee or retailer.

(b) Except as provided by subsection (d), no manufacturer~~, or~~, distributor *or microbrewery* shall, directly or indirectly, or through a subsidiary or affiliate or by any officer, director or firm of such manufacturer~~, or~~, distributor *or microbrewery*, furnish, give, lend or rent any interior decorations or any signs, for inside or outside use, for use in or about or in connection with the licensed premises of a licensee under the club and drinking establishment act, or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, products of the manufacturer~~, or~~, distributor *or microbrewery* are sold.

(c) No manufacturer~~, or~~, distributor *or microbrewery* shall directly or indirectly pay for or advance, furnish or lend money for the payment of any license of another under the club and drinking establishment act, the Kansas liquor control act or K.S.A. 41-2702, and amendments thereto.

(d) (1) A manufacturer~~, or~~, distributor *or microbrewery* may furnish things of value to a licensee under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, to the extent permitted by rules and regulations adopted by the secretary pursuant to subsection (e).

(2) Notwithstanding any other provision of law to the contrary, an owner, officer, stockholder or director of a distributor may have an interest in the licensed premises of a club, a drinking establishment or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, if such premises are located outside the geographic territory of the distributor's franchise.

(3) A microbrewery or owner, officer, stockholder or director thereof may have an interest in a licensed club, drinking establishment or caterer.

(e) The secretary shall adopt rules and regulations permitting manufacturers~~and~~, distributors *or microbreweries* to furnish equipment, signs, supplies or similar things of value to licensees under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto. Such rules and regulations shall limit the furnishing of such things of value so that they are not conditioned on or an inducement to the purchase of any alcoholic liquor or cereal malt beverage. In adopting such rules and regulations, the secretary shall consider and, to the extent the secretary determines suitable, base such rules and regulations on the standards of the bureau of alcohol, tobacco and firearms of the United States treasury.

Sec. 8. K.S.A. 41-706 is hereby amended to read as follows: 41-706. No manufacturer, distributor, *microbrewery* or wholesaler shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer, distributor, *microbrewery* or wholesaler, unless the package has affixed thereto all canceled revenue stamps~~which~~ *that* may be provided by federal law and shall also carry thereon a clear and

legible label containing the name and kind of alcoholic liquor contained therein, and the alcoholic content thereof, except in the case of beer, and such other information as may be required by federal laws and rules and regulations and by rules and regulations adopted by the secretary of revenue. No package shall be delivered by any manufacturer ~~or~~, distributor, *microbrewery* or importing distributor unless the same shall be securely sealed so that the contents thereof cannot be removed without breaking the seal so placed thereon by such manufacturer, and no other licensee shall sell, have in the possession of the licensee or use any package or container ~~which~~ *that* does not comply with this section or K.S.A. 41-707, and amendments thereto, or does not bear evidence that such package, when delivered to the licensee, complied with this section.

Sec. 9. K.S.A. 41-708 is hereby amended to read as follows: 41-708. No retailer licensed under this act shall purchase or receive alcoholic liquor from any source except from a distributor*, farm winery or microbrewery* licensed under this act and having a place of business in this state, except that a licensed retailer may purchase confiscated alcoholic liquor at a sheriff's sale. Any retail licensee who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than $200, nor more than $1,000, to which may be added imprisonment for not more than six months, and the license of such licensee may be revoked as provided by law.

Sec. 10. K.S.A. 41-709 is hereby amended to read as follows: 41-709. (a) No manufacturer ~~or~~, distributor *or microbrewery* shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer ~~or~~, distributor *or microbrewery* for resale, unless the person to whom such package is sold or delivered is authorized to receive such package in accordance with the provisions of this act.

(b) The director shall revoke the license of any manufacturer ~~or~~, distributor *or microbrewery* who violates the provisions of this section.

Sec. 11. K.S.A. 41-728 is hereby amended to read as follows: 41-728. (a) No distributor *or microbrewery* shall, directly or indirectly, sell on credit any alcoholic liquor or cereal malt beverage to a club, drinking establishment or caterer, and no club, drinking establishment or caterer shall, directly or indirectly, buy on credit any alcoholic liquor or cereal malt beverage from a distributor *or microbrewery*.

(b) Any sales of alcoholic liquor or cereal malt beverage by a distributor *or microbrewery* to a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, shall be separate transactions from sales by such distributor *or microbrewery* to any other such club, drinking establishment, caterer or retailer even if the licensee is the same person or entity

as the holder of the license for such other club, drinking establishment, caterer or retailer.

(c) Except as otherwise provided by this section or K.S.A. 41-702, 41-703 and 41-2707, and amendments thereto, any financial instrument, other than a second-party check, may be used by a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, to purchase alcoholic liquor or cereal malt beverage from a distributor *or microbrewery* and a distributor *or microbrewery* may accept any such financial instrument as payment. In addition, a prepayment plan may be used for the purpose of making such purchases if the amount prepaid does not exceed the usual purchases made for the period of time for which prepayment is made.

(d) Sales of alcoholic liquor by a distributor *or microbrewery* to clubs, drinking establishments, caterers or retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, shall be final except that a distributor *or microbrewery* may:

(1) Buy back any item of alcoholic liquor or cereal malt beverage ~~which~~ *that* such club, drinking establishment, caterer or retailer has obtained the approval of the director to close out;

(2) buy back any item of alcoholic liquor or cereal malt beverage when required by the supplier; ~~and~~

(3) buy back or exchange, within 24 hours after delivery, any item of alcoholic liquor or cereal malt beverage ~~which~~ *that* is damaged or deteriorated in quality*; and*

(4) buy back or exchange, at the original sales price, any item of beer or cereal malt beverage that is within 30 days of its expiration date.

Sec. 12. K.S.A. 41-1101 is hereby amended to read as follows: 41-1101. (a) No distributor licensed under this act shall purchase any alcoholic liquor from any manufacturer, owner of alcoholic liquor at the time it becomes a marketable product, exclusive agent of such manufacturer or owner, microbrewery, microdistillery, farm winery or distributor of alcoholic liquor bottled in a foreign country either within or without this state, unless the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor files with the director a written statement sworn to by the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor or, in case of a corporation, one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor manufactured or distributed by the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor to any distributor licensed in this state and having a franchise to distribute the alcoholic liquor pursuant to K.S.A. 41-410, and amendments thereto, and to make such sales to all such licensed distributors in this state at the same current price and without discrimination. Each

manufacturer, owner, exclusive agent, microbrewery, microdistillery or farm winery shall provide to each distributor written notice not less than 45 days before any change in the current price of any spirits or wine ~~which~~ *that* such manufacturer, owner, exclusive agent, microbrewery, microdistillery or farm winery sells to such distributor. If any manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor making the agreement violates the agreement by refusing to sell such alcoholic liquor to any such franchised licensed distributor in this state or discriminates in current prices among such franchised licensed distributors making or attempting to make purchases of alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor, the director shall notify, by registered mail, each such franchised licensed distributor in this state of the violation. Thereupon, it shall be unlawful for a franchised licensed distributor in this state to purchase any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor. If thereafter such a franchised licensed distributor purchases any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor, such franchised distributor's license shall be revoked by the director. If any manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor of alcoholic liquor bottled in a foreign country, making any agreement hereunder, does not have a sufficient supply of alcoholic liquor of any of the brands or kinds ~~which~~ *that* the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor manufactures or distributes to supply the demands of all licensed distributors having a franchise to distribute such alcoholic liquor, the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor may ration such alcoholic liquor and apportion the available supply among such franchised licensed distributors purchasing or attempting to purchase it, in accordance with a plan ~~which~~ *that* shall be subject to the approval of the director.

(b) No retailer licensed under this act shall purchase any alcoholic liquor from any distributor *or microbrewery* licensed under this act unless the distributor *or microbrewery* files with the director a written statement sworn to by the distributor *or microbrewery*, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor distributed by the distributor *or microbrewery* and to provide service in connection therewith to any licensed retailer whose licensed premises are located within the geographic territory of the distributor's franchise for the alcoholic liquor *or the microbrewery's geographic territory*, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at

the same current bottle, sleeve and case price and without discrimination. For purposes of this subsection the "same current bottle, sleeve and case price" for spirits and wine means a price effective for a specified period as designated by the distributor *or microbrewery* on or before the first day of each month. If any distributor *or microbrewery* making the agreement violates the agreement by refusing to sell or provide service to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of alcoholic liquor from the distributor *or microbrewery*, the director may revoke the license of the distributor *or microbrewery*. If any licensed distributor *or microbrewery* making any agreement hereunder does not have a sufficient supply of alcoholic liquor of any of the brands or kinds ~~which~~ *that* the distributor *or microbrewery* distributes to supply the demands of all such licensed retailers, the distributor *or microbrewery* may ration such alcoholic liquor and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan ~~which~~ *that* shall be subject to the approval of the director.

(c) No club or drinking establishment licensed in this state shall purchase any wine or beer from any distributor *or microbrewery* licensed under this act unless the distributor *or microbrewery* files with the director a written statement sworn to by the distributor *or microbrewery*, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of wine or beer distributed by the distributor *or microbrewery* to those clubs and drinking establishments to which the distributor *or microbrewery* is authorized to sell such wine or beer and to which the distributor *or microbrewery* desires to sell such wine or beer, unless written approval to do otherwise is obtained from the director and to make such sales to all such licensed clubs or drinking establishments at the same current bottle and case price and without discrimination. If any distributor *or microbrewery* making the agreement violates the agreement by refusing to sell to any such licensed club or drinking establishment in this state without written approval of the director or discriminates in current prices among such licensed clubs or drinking establishments making or attempting to make purchases of wine or beer from the distributor *or microbrewery*, the director may revoke the license of the distributor *or microbrewery*. If any licensed distributor *or microbrewery* making any agreement hereunder does not have a sufficient supply of wine or beer of any of the brands or kinds ~~which~~ *that* the distributor *or microbrewery* distributes to supply the demands of all such licensed clubs or drinking establishments, the distributor *or microbrewery* may ration such wine or beer and apportion the available supply among such licensed clubs or drinking establishments purchasing or attempting to purchase the same,

in accordance with a plan ~~which~~ *that* shall be subject to the approval of the director.

For the purposes of this subsection, a delivery charge shall not be considered a part of the price of wine or beer sold by a distributor *or microbrewery*.

(d) No retailer licensed under K.S.A. 41-2701 et seq., and amendments thereto, shall purchase any cereal malt beverage from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of cereal malt beverage distributed by the distributor to those retailers to which the distributor is authorized to sell such cereal malt beverage, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current price and without discrimination. If any distributor making the agreement violates the agreement by refusing to sell to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of cereal malt beverage from the distributor, the director may revoke the license of the distributor. If any licensed distributor making any agreement hereunder does not have a sufficient supply of cereal malt beverage of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed retailers, the distributor may ration such cereal malt beverage and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

(e) No distributor *or microbrewery* shall sell alcoholic liquor or cereal malt beverage to a retailer licensed under the Kansas liquor control act, to a club, drinking establishment or caterer licensed under the club and drinking establishment act or to a retailer licensed under K.S.A. 41-2702, and amendments thereto, at a discount for multiple case lots.

Sec. 13. K.S.A. 2023 Supp. 41-1201 is hereby amended to read as follows: 41-1201. (a) A temporary permit shall*:*

(1) Allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on licensed or unlicensed premises, or on premises that are otherwise subject to a separate temporary permit, that may be open to the public, subject to the terms of such permit~~. A temporary permit shall also~~*;*

(2) authorize the permit holder to sell, in accordance with rules and regulations adopted by the secretary, alcoholic liquor at a charitable auction, or one or more limited issue porcelain containers containing alcoholic liquor*; and*

(3) allow the permit holder to offer for sale, sell and serve alcoholic liquor that is beer or hard cider manufactured by a microbrewery licensee and purchased by the temporary permit holder from such microbrewery licensee as provided by K.S.A. 41-308b, and amendments thereto, for consumption on licensed or unlicensed premises, or on premises that are otherwise subject to a separate temporary permit, that may be open to the public, subject to the terms of such permit.

(b) A temporary permit holder may charge a fee for entrance into the premises described in the permit, or any portion thereof.

(c) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(d) (1) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought, unless the director waives such requirement for good cause. The application shall be upon a form prescribed by the director. Each application shall be electronically submitted and accompanied by a non-refundable permit fee of $25 for each day for which the permit is issued, and such fee shall be paid by a check or credit card in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(2) No city, county or township shall charge more than a $25 non-refundable fee for each day for which the permit is issued.

(e) Each application for a temporary permit shall specify the premises for which such permit is issued, including a diagram of the premises covered by the temporary permit. The diagram shall clearly show the boundaries of the premises, entrances to and exits from the premises and the area in which the service of alcoholic liquor would take place. A temporary permit shall be issued only for premises where the city, county or township zoning code allows the use for which the permit is issued. No temporary permit shall be issued for premises that are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or

(B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(f) (1) (A) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for an event if: (i) Such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such event; (ii) a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body; and (iii) the event has been approved by the governing body of such city, county or township by ordinance or resolution.

(B) The boundaries of any such event shall be clearly marked by signs, a posted map or other means that reasonably identify the area in which alcoholic liquor may be possessed or consumed at such event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of an event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the event, for the duration of the temporary permit issued for such event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of an event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(4) Each temporary permit holder selling alcoholic liquor for consumption on the permit premises shall be liable for all violations of laws governing the sale and consumption of alcoholic liquor that occur in areas covered by multiple temporary permits.

(g) (1) A temporary permit may be issued for the sale of wine, beer or other alcoholic liquor on the Kansas state fairgrounds during the days of the Kansas state fair, or as authorized by the Kansas state fair board, if the Kansas state fair board has authorized such consumption and possession of such wine, beer or other alcoholic liquor. Each application for such temporary permit shall specify the premises within the fairgrounds for which the permit is issued, including a diagram of the premises covered by the temporary permit. Such diagram shall match the entirety of the premises as leased from the Kansas state fair board. The boundaries of the Kansas state fairgrounds shall be clearly marked by signs, a posted map or other means that reasonably identify the area in which wine, beer or other alcoholic liquor, may be possessed or consumed at the state fair.

(2) Each temporary permit holder selling wine, beer or other alcoholic liquor for consumption on the premises of the Kansas state fairgrounds

that is covered by such temporary permit shall be liable for all violations of laws governing the sale and consumption of such alcoholic liquor that occur on such temporary premises.

(3) Any temporary permit holder who has received a temporary permit for the sale of wine, beer or other alcoholic liquor on the Kansas state fairgrounds may allow such wine, beer or other alcoholic liquor to be removed from the temporary permit premises and onto the Kansas state fairgrounds.

(h) (1) Except as otherwise provided in this subsection, a temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. An applicant may not be issued more than four temporary permits in a calendar year.

(2) The director may issue a sufficient number of temporary permits as required by the state fair board, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of wine, beer or other alcoholic liquor on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose subject to the conditions imposed by the state fair board. Nothing in this paragraph shall be construed to limit the number of temporary permits the director may issue for the sale of wine, beer or other alcoholic liquor on the state fairgrounds consistent with the requirements of the state fair board.

(3) For an event approved by the governing body of a city, county or township pursuant to subsection (e)(1), the director may issue a temporary permit, which may, at the director's discretion, be valid for the entire period of such event, but in no event shall such permit be issued for a period of time that exceeds 30 consecutive days.

(i) An application for a temporary permit may be rejected by the director if:

(1) The applicant has been granted 12 permits in the current calendar year;

(2) the application was not filed with the director at least 14 days prior to the event;

(3) the applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant has previously owned or operated any entity holding a temporary permit, club, drinking establishment or caterer's license, had such permit or license surrendered, and at the time such permit or license was surrendered had been ordered to appear and show cause why the permit or license should not be revoked or suspended;

(4) the applicant has designated an area for an event that was the subject of the order to appear and show cause as set forth in paragraph (3),

and it appears that the new application for a temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former permit or license holder;

(5) the applicant has had a license or permit revoked under the club and drinking establishment act, or has been convicted of a violation of the Kansas liquor control act, the club and drinking establishment act, the Kansas cereal malt beverage act or the provisions of K.S.A. 79-41a01 et seq., and amendments thereto; or

(6) the applicant has not remitted all liquor drink taxes due from a previous temporary permit.

(j) (1) A temporary permit holder may purchase and possess alcoholic liquor for resale for a period of three days prior to the first day of sale of such alcoholic liquor. A distributor may, without any further permission from the director, deliver such alcoholic liquor to the permit premises.

(2) If a licensee has sold alcoholic liquor to a temporary permit holder, and a distributor directly delivers such alcoholic liquor to such temporary permit holder, but such licensee's normal hours of operation make immediate payment to the distributor impossible, the licensee may pay the retailer and the retailer may pay the distributor for such alcoholic liquor within 48 hours of the sale.

(3) Within three business days after the end of an event conducted pursuant to a temporary permit, the temporary permit holder may sell back to the retailer ~~or~~, farm winery *or microbrewery* from whom alcoholic liquor was purchased any alcoholic liquor sold to the temporary permit holder for such event.

(4) Upon written permission from the director and after four business days after the end of an event conducted pursuant to a temporary permit, the temporary permit holder may sell back to the licensee from whom alcoholic liquor was purchased any alcoholic liquor sold to the temporary permit holder for such event.

(k) A temporary permit shall not be transferable or assignable.

(l) Each temporary permit holder shall not employ or use the services of any person:

(1) Who is under 18 years of age to serve alcoholic liquor;

(2) who is under 21 years of age to mix or dispense drinks containing alcoholic liquor;

(3) who is under 21 years of age and not supervised by the temporary permit holder or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor; or

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of this state, any other state or the United States, to dispense, mix or serve alcoholic liquor.

Sec. 14. K.S.A. 41-1202 is hereby amended to read as follows: 41-1202. (a) A temporary permit holder shall only purchase alcoholic liquor or cereal malt beverage from a retailer ~~or~~, a farm winery *or a microbrewery, as provided by K.S.A. 41-308b, and amendments thereto,* and may receive delivery of such alcoholic liquor or cereal malt beverage from a distributor.

(b) Temporary permit holders shall only purchase alcoholic liquor or cereal malt beverage from a retailer who possesses a federal wholesaler's basic permit and ~~who~~ has a sign on display at the licensed premises that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." All alcoholic liquor or cereal malt beverage purchased on any one day shall be removed from the licensed premises of the retailer ~~or~~, farm winery *or microbrewery* within 48 hours. Temporary permit holders shall not warehouse any alcoholic liquor or cereal malt beverage on the licensed premises of any retailer ~~or~~, farm winery *or microbrewery* for more than 48 hours.

(c) Each temporary permit holder, when purchasing alcoholic liquor or cereal malt beverage from a retailer ~~or~~, farm winery *or microbrewery*, shall obtain and keep for at least one year from the date of purchase a sales receipt that contains the following information:

(1) The date of purchase;

(2) the name and address of the retailer ~~or~~, farm winery *or microbrewery*;

(3) the name and address of the temporary permit holder as it appears on the temporary permit;

(4) the brand, size, proof and amount of all alcoholic liquor or cereal malt beverage purchased; and

(5) the subtotal of the cost of all alcoholic liquor or cereal malt beverage purchased, and the total cost of such purchase, including enforcement tax.

(d) Each temporary permit holder shall be responsible for all violations of the club and drinking establishment act by the following people while on the permit premises:

(1) An employee of the temporary permit holder, or of any person contracting with the temporary permit holder to provide services or food in connection with an event; or

(2) any individual dispensing, mixing or serving alcoholic liquor or cereal malt beverage at an event.

(e) Except for a temporary permit holder who has obtained such permit for the sale of alcoholic liquor at a charitable auction or for the sale of one or more limited issue porcelain containers containing alcoholic liquor, no temporary permit holder shall sell alcoholic liquor or cereal malt beverage for removal from or consumption off the licensed premises, except that alcoholic liquor or cereal malt beverage may be removed to a drinking establishment that has extended its premises into the event area in accordance with K.S.A. 41-2608, and amendments thereto.

(f) The boundary of any premises covered by a temporary permit shall be marked by a line of demarcation.

Sec. 15. K.S.A. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises ~~which~~ *that* may be open to the public, and to serve samples of *such* alcoholic liquor or cereal malt beverage free of charge on licensed premises subject to the requirements of subsection (c), ~~but only~~ if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986; or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(d) (1) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

(2) If the drinking establishment licensee also holds a manufacturer's

license issued under the Kansas liquor control act, the licensed premises specified in the drinking establishment license shall not be the same as the licensed premises specified in the manufacturer's license, but such specified premises shall be located not more than two miles by the usually traveled road from the licensed premises specified in the manufacturer's license.

(e) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

(f) A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

(g) If the drinking establishment licensee also holds a manufacturer's license issued under the Kansas liquor control act, the drinking establishment shall not sell alcoholic liquor manufactured by such manufacturer's licensee to the exclusion of other alcoholic liquor. All beer and cereal malt beverage sold by the drinking establishment shall be acquired from a distributor ~~or~~, retailer *or microbrewery* licensed under the Kansas liquor control act, and all wine and spirits sold by the drinking establishment shall be acquired from a retailer or farm winery licensed under the Kansas liquor control act and who possesses a federal wholesaler's basic permit*, except that hard cider may be acquired from a microbrewery licensed under the Kansas liquor control act and who possesses a federal wholesaler's basic permit*.

Sec. 16. K.S.A. 41-308b, 41-410, 41-601, 41-701, 41-702, 41-703, 41-706, 41-708, 41-709, 41-728, 41-1101, 41-1202 and 41-2642 and K.S.A. 2023 Supp. 41-1201 are hereby repealed.

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

Approved April 18, 2024.

CHAPTER 60

HOUSE BILL No. 2527

AN ACT concerning public utilities; relating to the state corporation commission; authorizing public utilities to defer to a regulatory asset and recover depreciation expenses relating to certain rate base additions; establishing a cap on such cost recovery and limiting the time that such cost recovery may be implemented by a public utility; authorizing new economic development electric rates for large facilities; limiting the time that such economic development rates for large facilities may be implemented by a public utility; prohibiting any revenue lost through the implementation of economic development rates from being imputed into the electric public utility's revenue requirement; prohibiting the commission from authorizing the retirement of nuclear powered and fossil fuel-fired electric generating units unless certain requirements are met; authorizing electric public utilities to retain certain electric generating facilities in the utility's rate base; requiring the commission to report annually on public utility requests to retire electric generating units; authorizing a rate adjustment mechanism for the construction of new gas-fired electric generating facilities; limiting the time that such rate adjustment mechanism may be implemented by a public utility; extending the timeline for the commission to make a determination of ratemaking principles and treatment prior to a public utility constructing or acquiring a stake in an electric generation or transmission facility; establishing procedural requirements to support the timely completion of such proceedings; revising the net metering and easy connection act; increasing the public utility system-wide capacity limit for facilities subject to net metering; requiring net metering facilities to be appropriately sized based on the customer's expected load; establishing requirements for exporting power from a net metering facility to a utility; amending K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and K.S.A. 2023 Supp. 66-101j and 66-1239 and repealing the existing sections.

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

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

(1) "Commission" means the state corporation commission.

(2) "Public utility" means the same as defined in K.S.A. 66-104, and amendments thereto.

(3) "Qualifying electric plant" means all rate base additions by an electric public utility. "Qualifying electric plant" does not include transmission facilities or new electric generating units.

(4) "Rate base cutoff date" means the date rate base additions are accounted for in a general rate proceeding. In the absence of a commission order that specifies the rate base cutoff date, "rate base cutoff date" means the date as reflected in any jointly proposed procedural schedule submitted by the parties in the applicable general rate proceeding, or the date that is otherwise agreed to by such parties.

(5) "Weighted average cost of capital" means the return on rate base used to determine the revenue requirement or that was approved to be used for regulatory accounting purposes in the public utility's most recently ordered return on rate base in a general rate proceeding.

(b) Notwithstanding any other provision of law except K.S.A. 66-1239(b)(5), and amendments thereto, commencing on July 1, 2024, a

public utility shall defer to a regulatory asset 90% of all depreciation expense and return associated with all qualifying electric plants recorded to plant-in-service on the utility's books if the public utility has provided notice to the commission of the public utility's election to make such deferrals pursuant to subsection (f)(1). Such deferral shall begin on July 1, 2024, if the public utility has notified the commission of the public utility's election to make such deferral by such date or shall begin on the date that such election is made if such election is made after July 1, 2024. Except as provided in subsection (c), subsection (f)(2) and the provisions of section 2, and amendments thereto, in each general rate proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate base cutoff date shall be included in the public utility's rate base without any offset, reduction or adjustment based upon consideration of any other factor with the regulatory asset balance arising from deferrals associated with qualifying electric plants placed in service after the rate base cutoff date to be included in rate base in the next general rate proceeding.

(c) The regulatory asset balances arising under this section shall be adjusted to reflect any prudence disallowances ordered by the commission. This section shall not be construed to affect existing law with respect to the burdens of production and persuasion in general rate proceedings for rate base additions.

(d) Parts of regulatory asset balances created under this section that are not included in rate base shall include carrying costs at the public utility's weighted average cost of capital, plus applicable federal, state and local income or excise taxes. Regulatory asset balances arising under this section that are included in rate base shall be recovered in rates through a 20-year amortization beginning on the date new rates reflecting such amortization take effect.

(e) (1) Depreciation expense deferred under this section shall account for any qualifying electric plant placed into service less retirements of the plant replaced by such qualifying electric plant.

(2) Return deferred under this section shall be determined using the weighted average cost of capital applied to the change in plant-related rate base caused by the qualifying electric plant, plus applicable federal, state and local income or excise taxes. In determining the return deferred, the public utility shall account for changes in all plant-related accumulated deferred income taxes and changes in accumulated depreciation, excluding retirements.

(f) (1) This section shall only apply to any public utility that has elected to make the deferrals for which this section provides and filed a notice with the commission of such election.

(2) A public utility that makes such election shall be authorized to make the deferrals authorized by this section until December 31, 2030,

except that, upon application by such public utility, the commission may authorize the public utility to continue to make the deferrals authorized by this section until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the deferrals authorized pursuant to this section. If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from making such deferrals after December 31, 2030, and shall not otherwise affect or terminate any deferral that is authorized to be made pursuant to this section or any regulatory or ratemaking treatment of the regulatory assets arising from such deferrals.

(g) The provisions of this section shall not be construed to restrict or limit the authority of the commission to authorize a public utility to use deferral accounting treatment for any rate base addition, such as a new electric generating unit, that is not considered a qualifying electric plant pursuant to this section.

New Sec. 2. (a) As used in this section:

(1) "Commission" means the state corporation commission.

(2) "Public utility" means the same as defined in K.S.A. 66-104, and amendments thereto.

(3) "Qualifying regulatory asset" means any regulatory asset balance arising pursuant to section 1, and amendments thereto, from the rate base cutoff date in the public utility's prior general rate proceeding to the rate base cutoff date in the current general rate proceeding in which the revenue requirement impact cap is applied.

(4) "Rate base cutoff date" means the date rate base additions are accounted for in a general rate proceeding. In the absence of a commission order that specifies the "rate base cutoff date," "rate base cutoff date" means the date as reflected in any jointly proposed procedural schedule submitted by the parties in the applicable general rate proceeding or the date that is otherwise agreed to by the parties.

(5) "Revenue requirement impact cap" means the product of:

(A) $^1/_{12}$ of 1.5% multiplied by the number of months that have elapsed from the effective date of new base rates in an electric public utility's most recently completed general rate proceeding to the effective date of new base rates in the general rate proceeding in which the cap is applied; and

(B) the retail revenue requirement used to set base rates in the electric public utility's most recently completed general rate proceeding concluded prior to the general rate proceeding in which the cap is applied.

(b) The provisions of this section apply to any public utility that has elected to make the deferrals authorized pursuant to section 1, and amendments thereto, until the public utility's authority to make such deferrals expires pursuant to section 1, and amendments thereto.

(c) Any part of a public utility's retail revenue requirement used to set the public utility's base rates in any general rate proceeding of the public utility that is concluded on or after July 1, 2024, and that consists of a revenue requirement arising from inclusion in rate base of the qualifying regulatory asset balance shall not exceed the revenue requirement impact cap. If inclusion in rate base of the full balance of the qualifying regulatory asset balance would cause the public utility to exceed the revenue requirement impact cap, any part of the qualifying regulatory asset balance that exceeds the revenue requirement impact cap shall not be included in rate base and the qualifying regulatory asset balance shall be reduced accordingly as a penalty.

Sec. 3. K.S.A. 2023 Supp. 66-101j is hereby amended to read as follows: 66-101j. (a) Notwithstanding the provisions of K.S.A. 66-101b or 66-109, and amendments thereto, the commission shall authorize an electric public utility to implement economic development rate schedules that provide discounts from otherwise applicable standard rates for electric service for new or expanded facilities of industrial or commercial customers that are not in the business of selling or providing goods or services directly to the general public. To be eligible for such discounts, such customer shall:

(1) Have incentives from one or more local, regional, state or federal economic development agencies to locate such new or expanded facilities in the electric public utility's certified service territory;

(2) qualify for service under the electric public utility's nonresidential and non-lighting rate schedules for such new or expanded facility; and

(3) not receive the discount together with service provided by the electric public utility pursuant to any other special contract agreements.

(b) The discount authorized by this section shall only be applicable to new facilities or expanded facilities that have:

(1) A peak demand that is reasonably projected to be at least 200 kilowatts within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:

(A) Has an annual load factor that is reasonably projected to equal or exceed the electric public utility's annual system load factor within two

years of the date the customer first receives service under the discounted rate; or

(B) otherwise warrants a discounted rate based on any of the following factors:

(i) The number of new permanent full-time jobs created or the percentage increase in existing permanent full-time jobs created;

(ii) the level of capital investment;

(iii) additional off-peak usage;

(iv) curtailable or interruptible load;

(v) new industry or technology; or

(vi) competition with existing industrial customers;~~ or~~

(2) *a peak demand that is reasonably projected to be at least 300 kilowatts within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:*

(A) An annual load factor that is reasonably projected to be at least 55% within two years of the date the customer first receives service under the discounted rate; and

(B) the facility shall, once first achieved, maintain the peak demand and load factor for the remaining duration of the discounted rate; or

(3) a peak demand that is reasonably projected to be at least~~ 300 kilowatts~~ *25 megawatts* within two years of the date the customer first receives service under the discounted rate and is not the result of shifting existing demand from other facilities of the customer in the electric public utility's certified service territory and:

(A) An annual load factor that is reasonably projected to be at least 55% within two years of the date the customer first receives service under the discounted rate; and

(B) the facility shall, once first achieved, maintain the peak demand and load factor for the remaining duration of the discounted rate.

(c) The discount authorized by this section shall be determined by reducing otherwise applicable charges associated with the rate schedule applicable to the new or expanded existing facility by a fixed percentage for each year of service under the discount for a period of up to*:*

(1) Five years *to facilities that qualify pursuant to subsection (b)(1) or (b)(2); and*

(2) 10 years to facilities that qualify pursuant to subsection (b)(3).

(d) (1) For discounts to facilities that qualify pursuant to subsection (b)(1), the average of the annual discount percentages shall not~~:~~

~~(1)~~ exceed 20%~~ for discounts that qualify pursuant to subsection (b)(1), but~~*, except that such discounts* may be between 5% to 30% in any year~~; and~~ *of such five-year period.*

(2) For discounts to facilities that qualify pursuant to subsection (b)(2), the average of the annual discount percentages shall not exceed 40%, except that such discounts may be between 20% and 50% in any year of such five-year period.

(3) For discounts to facilities that qualify pursuant to subsection (b)(3), the average of the annual discount percentages shall not exceed*:*

(A) For the first five years of the discount period, 40% ~~for discounts that qualify pursuant to subsection (b)(2), but~~*, except that such discounts* may be between 20% to 50% in any year *of such five-year period; and*

(B) for the final five years of the discount period, 20%, except that such discounts may be between 10% and 30% in any year of such five-year period.

~~(d)~~*(e)* ~~In each general rate proceeding concluded after the effective date of this section, the commission shall allocate the reduced level of revenues arising from the discounted rates provided for in this section through the application of a uniform percentage adjustment to the revenue requirement responsibility for all customer classes of the electric public utility providing such discounted rate, including the classes with customers that qualify for discounts under this section, except for rates for service provided to customers under contract rates either approved by the commission pursuant to K.S.A. 2023 Supp. 66-101i, and amendments thereto, or the commission's general ratemaking authority~~ *(1) Except as provided in paragraph (2), on and after July 1, 2024, the difference in revenues generated by applying the discounted rates authorized pursuant to this section and the revenues that would have been generated without such discounts shall not be imputed into the electric public utility's revenue requirement.*

(2) Any reduction in revenue resulting from any discount provided pursuant to this section that was tracked by the public utility and deferred to a regulatory asset prior to July 1, 2024, shall be recoverable in any general rate proceeding initiated on or after July 1, 2024, through an equal percentage adjustment to the revenue requirement responsibility for all customer classes of the public utility, including the customer classes that include customers qualifying for discounts pursuant to this section.

~~(e) (1) The commission shall approve a tracking mechanism to track reductions in revenue experienced by the electric public utility serving the facility as a result of the discount rate from the date the discount rate becomes effective; and~~

~~(2) such reductions in revenue shall be deferred to a regulatory asset and shall accrue interest at the weighted average cost of capital used by the commission to set the electric public utility's rates in its most recently concluded general rate proceeding with the balance of such regulatory asset to be included in the rate base and revenue requirement of the electric~~

~~public utility in each of the utility's general rate proceedings through an amortization of the balance over a reasonable period until fully collected from the utility's non-contract rate customers.~~

(f) The provisions of this section shall not apply to rates for service provided to customers under contract rates approved by the commission pursuant to K.S.A. 2023 Supp. 66-101i, and amendments thereto, or the commission's general ratemaking authority according to custom and practice of the commission in place prior to the effective date of this section.

(g) Starting in January 2023, the commission shall biennially provide a status report to the legislature about any discounts from tariffed rates authorized pursuant to this section. Such report shall include the:

(1) Number of entities with such discounts;

(2) number of entities with increased load;

(3) number of entities with decreased load;

(4) aggregate load and change in aggregate load on an annual basis;

(5) total subsidy and the subsidy for each individual contract;

(6) annual and cumulative rate impact on non-contract rate customers; and

(7) estimated economic development impact of entities with discounted rates that occurred as a result of such discounts through an evaluation of the annual: (A) Total employment for such entities; (B) change in employment for such entities; and (C) tax revenue generated by such entities.

(h) *An electric public utility shall be authorized to only implement discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to implement such discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) until December 31, 2036. Any such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When considering and making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3). If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from implementing discounted rates for facilities that qualify for such discounted rates pursuant to subsection (b)(3) after December 31, 2030, and shall not otherwise affect or terminate any discounted rates implemented by the public utility pur-*

suant to this section or any regulatory or ratemaking treatment of such discounted rates.

(i) For the purposes of this section:

(1) "Electric public utility" means the same as ~~prescribed~~ *defined* in K.S.A. 66-101a, and amendments thereto, but does not include any such utility that is a cooperative as defined in K.S.A. 66-104d, and amendments thereto, or owned by one or more such cooperatives;

(2) "expanded facility" means a separately metered facility of the customer, unless the utility determines that the additional costs of separate metering of such facility would exceed the associated benefits or that it would be difficult or impractical to install or read the meter, that has not received service in the electric utility's certified service territory in the previous 12 months; and

(3) "new facility" means a building of the customer that has not received electric service in the electric utility's certified service territory in the previous 12 months.

Sec. 4. K.S.A. 2023 Supp. 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~~ *$10,000,000* 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" 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.

(7) "Weighted average cost of capital" means the same as defined in section 1, and amendments thereto.

(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~~ *240* 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,~~ *acquiring a stake in* a generating facility, 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 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~~ *describe how the public utility's stake in the generating facility is consistent with the public utility's*

most recent preferred plan and resource acquisition strategy submitted to the commission.

(3) In considering the public utility's ~~supply~~ *preferred* plan *and resource acquisition strategy*, 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~~ *preferred* plan, and if the plan selected by the public utility is reasonable, reliable and efficient.

(4) *For requests by a public utility for a determination of ratemaking principles and treatment relating to the abandonment or retirement of a nuclear powered or fossil fuel-fired electric generating unit, the commission shall not approve the abandonment or retirement of such electric generating unit, authorize a surcharge or issuance of bonds for the decommissioning of such electric generating unit or take any other action that authorizes or allows for the recovery of costs for the retirement of such electric generating unit, including stranded asset recovery, unless:*

(A) The utility demonstrates that the public utility will be able to meet current and reasonably-anticipated future resource adequacy requirements of the regional transmission organization or independent system operator; and

(B) the abandonment or retirement is not expected to harm the utility's customers or decrease the utility's regional rate competitiveness by causing the utility to experience higher costs than would be expected by continuing to operate such electric generating unit in compliance with applicable law, unless, consistent with the integrated resource planning framework utilized by the commission, the commission determines that such higher costs are justified by other factors that are specified by the commission. The utility shall provide the commission with evidence of all known direct and indirect costs of abandonment or retirement of the electric generating unit and demonstrate that cost savings or avoided or mitigated cost increases to customers will occur as a result of the abandonment or retirement of the electric generating unit.

(5) 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 *and all securitization 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)~~*(6)(A) With respect to a new gas-fired generating facility, unless the commission timely elects not to set forth ratemaking principles applicable in the future on the grounds that acquiring a stake in such a generating facility is not reasonable, then notwithstanding any other provision of law,*

the public utility shall be permitted to implement a new rate adjustment mechanism designed to recover the return on 100% of amounts recorded to construction work in progress on the public utility's books for the public utility's stake in such a generating facility, which shall not exceed the definitive cost estimate found reasonable by the commission in a proceeding conducted pursuant to this section for the public utility's acquisition of the public utility's stake in such generating facility, unless otherwise ordered by the commission in a subsequent proceeding, at the weighted average cost of capital without offset, adjustment or reduction for any other issue or consideration, except that such return shall be in lieu of any otherwise applicable allowance for funds used during construction that would have accrued from and after the effective date of inclusion of construction work in progress in such rate adjustment mechanism. A rate adjustment mechanism authorized pursuant to this section shall become effective not sooner than 365 days after construction of the generation facility begins and within 60 days of the filing for the establishment of such mechanism by the public utility. As construction of the public utility's stake in such a generating facility continues and the balance of construction work in progress grows, the rate adjustment mechanism in effect shall be subject to periodic increases, without adjustment, offset or reduction for any other issue or consideration, except that such periodic increases shall not occur more frequently than once every six months. Except as provided in this section, the public utility's customers shall be charged pursuant to such rate adjustment mechanism until such time as new base rates reflecting the public utility's investment in such generating facility take effect, with such base rates to include a deferral for depreciation expense incurred and carrying costs on any unrecovered portion of such investment at the public utility's weighted average cost of capital as determined in the rate-making proceeding setting such base rates that occurred between the date such generation facility was placed in service on the public utility's books and the effective date of base rates in such proceeding. A rate adjustment mechanism authorized pursuant to this section shall be permitted to remain in effect for a period not to exceed six years.

(B) If a public utility implements a rate adjustment mechanism pursuant to this paragraph and subsequently terminates the initiative to acquire a stake in the generating facility, the commission shall have the authority, after a hearing is held on the matter, to order the public utility to refund customers any amounts collected through such rate adjustment mechanism.

(C) A public utility shall be authorized to implement a rate adjustment mechanism pursuant to this paragraph until December 31, 2030, except that, upon application by such public utility, the commission may authorize the public utility to continue to implement a rate adjustment mechanism pursuant to this paragraph until December 31, 2036. Any

such application shall be filed with the commission on or before December 31, 2028. The commission shall issue a determination on an application filed pursuant to this subsection within 240 days of the date that such application is filed. If requested by the public utility, an intervenor in the application docket or commission staff, the commission shall hold a hearing on such application. When considering and making a determination upon such application, the commission may consider factors that the commission deems just and reasonable and condition the commission's determination on any factors that are relevant to the rate adjustment mechanism authorized pursuant to this paragraph. If the commission denies the public utility's application, such denial shall only act to prohibit the public utility from implementing a rate adjustment mechanism after December 31, 2030, and shall not otherwise affect or terminate any rate adjustment mechanism implemented by the public utility pursuant to this section or any regulatory or ratemaking treatment of such rate adjustment mechanism.

(7) 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, contract or retired or abandoned generating facility.

~~(6)~~*(8)* If the commission fails to issue a determination within ~~180~~ *240* 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, 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) *(1) It is the intent of the legislature that when a public utility files a petition for a determination of ratemaking principles and treatment pursuant to subsection (b) or (c), consistent with the state corporation commission's customary practices, the commission shall:*

(A) Issue a determination on such petition in an expeditious manner; and

(B) when circumstances allow, attempt to issue such determination in a period of time that is less than the 240-day deadline to issue such determination established pursuant to subsection (b) or (c).

(2) In furtherance of such legislative intent, a public utility that intends to file a petition for a determination of ratemaking principles and treatment pursuant to this section shall provide notice to the commission of such public utility's intent to file such petition not less than 30 days before filing a petition pursuant to this section. Upon receipt of such notice,

the commission shall provide notice of the public utility's intent to file a petition pursuant to this section to each person or entity that was a party to or an intervenor in the public utility's most recently concluded base rate case.

(3) In any proceeding conducted pursuant to this section, any application for intervention in such proceeding shall be submitted not later than 10 days after the public utility's filing of a petition for a determination of ratemaking principles and treatment. The commission shall adopt a procedural schedule for the proceeding not later than 30 days after a public utility files a petition for a determination of ratemaking principles and treatment pursuant to this section.

(e) 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~~ *acquire a stake in* the generating or transmission facility, whether it will perform under terms of the contract or whether it will retire or abandon the generating facility.

~~(e)~~*(f)* 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~~ *acquire a stake in* the generating or transmission facility, 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 subsection (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)~~*(g)* If the public utility notifies the commission under subsection ~~(d)~~ *(e)* that it will ~~construct or participate~~ *acquire a stake* in a generating facility or *participate in a* 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 *in the proceeding it initiated pursuant to this section* and ~~file an alternative supply plan with the commission pursuant to subsection (c) within 90 days~~ *provide notification of a change in the utility's preferred resource plan as required by commission order.*

(h) For nuclear powered and coal-fired electric generating facilities, if determined by the commission to be just, reasonable and necessary for the provision of sufficient and efficient service, an electric public utility shall be permitted to:

(1) Retain such facilities in such utility's rate base;

(2) recover expenses associated with the operation of such facilities that remain in service to provide greater certainty that generating capacity will be available to provide essential service to customers, including during extreme weather events; and

(3) recover any portion of such utility's rate base and prudently incurred expenses necessary for such facilities:

(A) To operate at a low-capacity factor; or

(B) that are offline during normal operating conditions and providing capacity only.

(i) The commission shall prepare and submit to the legislature by December 1 of each year an annual report based on the preceding calendar year that provides:

(1) The number of requests by utilities to retire electric generating units in the state, the nameplate capacity of each of those units and whether the request was approved or denied by the commission;

(2) the impact of any commission-approved retirement of an electric generating unit on the:

(A) Utility's and state's generation capacity by fuel type;

(B) required capacity reserve margins for the utility and the overall capacity reserve margin within the state;

(C) utility's need for capacity additions or expansions at new or existing facilities as a result of the retirement; and

(D) utility's need for additional power or capacity reserve arrangements; and

(3) whether the retirement resulted in stranded costs for ratepayers that will be recovered by the utility through securitization or some other charge on customer bills.

(j) The provisions of subsection (c)(4) shall expire on July 1, 2034.

Sec. 5. K.S.A. 66-1264 is hereby amended to read as follows: 66-1264. As used in the net metering and easy connection act:

(a) "Commission" means the state corporation commission.

(b) "Customer-generator" means the owner or operator of a net metered facility ~~which~~ *that*:

(1) Is powered by a renewable energy resource;

(2) is located on a premises owned, operated, leased or otherwise controlled by the customer-generator;

(3) is interconnected and operates in parallel phase and synchronization with an affected utility and is in compliance with the standards established by the affected utility;

(4) is intended primarily to offset part or all of the customer-generator's own electrical energy requirements *such that the customer-generator will fully consume the energy output or will deliver the remaining energy output and all other services to the utility*; *and*

(5) contains ~~a~~ *an underwriter laboratories listed* mechanism, approved by the utility, that automatically disables the unit and interrupts the flow of electricity back onto the ~~supplier's~~ *utility's* electricity lines in the event that service to the customer-generator is interrupted.

(c) *"Export" means power that flows from a customer-generator's electrical system through a customer's billing meter and onto the utility's electricity lines.*

(d) "Generating capacity" means the maximum amount of alternating current power that a customer generator's net metered system can produce.

(e) "Peak demand" ~~shall have the meaning ascribed thereto~~ *means the same as defined* in K.S.A. 66-1257, and amendments thereto.

(f) "Permission to operate" means the operational date of the customer-generator's net metered facility.

~~(d)~~*(g)* "Renewable energy resources" ~~shall have the meaning ascribed thereto~~ *means the same as defined* in K.S.A. 66-1257, and amendments thereto.

(h) "Supplied" means power that flows from the utility's electricity lines through a customer's billing meter and into a customer-generator's electrical system.

~~(e)~~*(i)* "Utility" means investor-owned electric utility.

(j) "Witness test" means a representative of the utility is on-site to measure or verify a specific setting or operational condition.

Sec. 6. K.S.A. 66-1265 is hereby amended to read as follows: 66-1265. Each utility shall:

(a) *(1) Except as provided in paragraph (2),* make net metering available to customer-generators *who are in good standing with the utility* on a first-come, first-served basis, until the total rated generating capacity *as approved by the utility* of all net metered systems equals ~~or exceeds one~~*:*

(A) Commencing July 1, 2024, ~~percent~~ *2%* of the utility's peak demand during the previous year*;*

(B) commencing July 1, 2025, 3% of the utility's peak demand during the previous year;

(C) commencing July 1, 2026, 4% of the utility's peak demand during the previous year; and

(D) commencing July 1, 2027, and each year thereafter, 5% of the utility's historic highest annual peak demand since 2014.

(2) The commission may increase the total rated generating capacity of all net metered systems to an amount above ~~one percent~~ 5% after conducting a hearing pursuant to K.S.A. 66-101d, and amendments thereto;

(b) provide an appropriate class bidirectional meter to the customer-generator at no charge, but may charge the customer-generator for the cost of any additional metering or distribution equipment necessary to accommodate the customer-generator's facility;

(c) disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the utility;

(d) for any customer-generator ~~which~~ *that* began operating its renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014, offer to the customer-generator a tariff or contract that is identical in electrical energy rates, rate structure and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator and shall not charge the customer-generator any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator; and

(e) for any customer-generator ~~which~~ *that* began operating its renewable energy resource under an interconnect agreement with the utility on or after July 1, 2014, have the option to propose, within an appropriate rate proceeding, the application of time-of-use rates, minimum bills, *incentive programs* or other rate structures that would apply to all such customer-generators prospectively.

Sec. 7. K.S.A. 66-1266 is hereby amended to read as follows: 66-1266. (a) Prior to January 1, 2030, for any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated~~ *exported* by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility in accordance with normal practices for customers in the same rate class.

(2) If such customer-generator ~~generates~~ *exports* electricity in excess of the ~~customer-generator's monthly consumption~~ *electricity supplied by the utility*, all such net excess ~~energy (NEC)~~ *generation*, expressed in kilowatt-hours, shall be carried forward from month-to-month and credited at a ratio of one-to-one against the ~~customer-generator's energy consumption~~ *electricity supplied by the utility*, expressed in kilowatt-hours, in subsequent months.

(3) Any interconnect agreement between such customer-generator and a utility and all such ~~NEC generated~~ *net excess generation exported* under such agreement shall be ~~transferrable~~ *transferable* and continue in place until January 1, 2030, regardless of whether there is a change in ownership of the property ~~on which~~ *where* the renewable energy resource is located.

(4) Any ~~NEC resulting~~ *net excess generation exported* from renewable energy resources that are installed on and after July 1, 2014, but are part of an installation of a renewable energy resource that was operating prior to July 1, 2014, shall be carried forward and credited to the customer as if such resources had begun operation prior to July 1, 2014.

(5) Any net excess generation credit remaining in a net-metering customer's account on March 31 of each year shall expire.

(b) For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2014:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated~~ *exported* by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility.

(2) If such customer-generator ~~generates~~ *exports* electricity in excess of the ~~customer-generator's monthly consumption~~ *electricity supplied by the utility*, all such ~~NEG~~ *net excess generation* remaining in such customer-generator's account at the end of each billing period shall be credited to the customer at a rate of *at least* 100% of the utility's monthly system average cost of energy per kilowatt hour.

(c) *Except as otherwise provided in subsection (d),* on and after January 1, 2030, for all customer-generators, regardless of when such customer-generators entered into an interconnect agreement with the utility:

(1) If the electricity supplied by the utility exceeds the electricity ~~generated~~ *exported* by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility; and

(2) if such customer-generator ~~generates~~ *exports* electricity in excess of the ~~customer-generator's monthly consumption~~ *electricity supplied by the utility*, all such ~~NEG~~ *net excess generation* remaining in a customer-generator's account at the end of each billing period shall be credited to the customer at a rate of *at least* 100% of the utility's monthly system average cost of energy per kilowatt hour.

(d) For any customer-generator that began operating a renewable energy resource under an interconnect agreement with the utility on and after July 1, 2024, and receives service on an optional time-varying rate:

(1) The utility shall measure the net electrical energy exported or supplied during the billing period for each of the time of use periods established by the applicable time-varying rate schedule that applies to the customer-generator's rate class in accordance with normal metering practices for customers that take service on time-varying rates in that same rate class;

(2) electricity supplied by the utility shall be netted against the electricity exported by the customer-generator during each applicable time of use period;

(3) if the electricity supplied by the utility exceeds the electricity exported by the customer-generator during any time of use period, the customer-generator shall be billed for the net electricity supplied by the utility in each such time of use period as well as all other charges as such charges are applied to non-customer-generators in the same rate class;

and

(4) if the electricity exported by the customer-generator exceeds the electricity supplied by the utility during any time of use period, the customer-generator shall be credited at a rate of at least 100% of the utility's monthly system average cost of energy per kilowatt hour, with any net credit, and net of all other charges as such charges are applied to non-customer-generators in the same rate class, applied to the next billing period.

Sec. 8. K.S.A. 66-1267 is hereby amended to read as follows: 66-1267. (a) For customer-generators that began operating a renewable energy resource under an interconnect agreement with the utility prior to July 1, 2014:

(1) Such utility shall allow:

(A) Residential customer-generators to ~~generate~~ *export* electricity subject to net metering up to 25 kilowatts; and

(B) commercial, industrial, school, local government, state government, federal government, agricultural and institutional customer-generators to ~~generate~~ *export* electricity subject to net metering up to 200 kilowatts.

(2) Nothing in this act shall be construed to prevent such customer-generators from installing additional renewable energy resources after July 1, 2014, that will generate electricity pursuant to the restrictions contained in paragraph (1).

(b) For customer-generators that begin operating a renewable energy resource under an interconnect agreement with the utility after July 1, 2014, such utility shall allow~~:~~

~~(1) All residential customer-generators to generate electricity subject to net metering up to 15 kilowatts;~~

~~(2) commercial, industrial, religious institution, local government, state government, federal government, agricultural and industrial customer-generators to generate electricity subject to net metering up to 100 kilowatts, unless otherwise agreed to by the utility and the customer-generator; and~~

~~(3) school customer-generators to generate electricity subject to net metering up to 150 kilowatts. For the purpose of this section, "school" means any postsecondary educational institution as defined in K.S.A. 74-3201b, and amendments thereto, or any public or private school which provides instruction for students enrolled in grade kindergarten or grades one through 12~~ *customer-generators to export electricity subject to net metering up to 150 kilowatts alternating current*.

(c) Customer-generators shall appropriately size their ~~generation~~ *export capacity* to their expected load *as follows:*

(1) (A) (i) Divide the customer-generator's historic consumption in kilowatt-hours for the previous 12-month period by 8,760; and

(ii) divide the quotient calculated pursuant to paragraph (1)(A)(i) by

a capacity factor of 0.144; or

(B) if the customer-generator does not have historic consumption data that adequately reflects the customer's consumption at such premises, the customer-generator's historic consumption for the previous 12-month period shall be 7.15 kilowatt-hours per square foot of conditioned space; and

(2) round up the quotient calculated pursuant to paragraph (1)(A)(i) or the amount determined pursuant to paragraph (1)(B) to the nearest standard size as follows:

(A) Between two kilowatts alternating current power and 20 kilowatts alternating current power, round up to the nearest two kilowatts alternating current power increment; and

(B) between 20 kilowatts alternating current power and 150 kilowatts alternating current power, round up to the nearest five kilowatts alternating current power increment.

(d) For customer-generators that operate a renewable energy resource under an interconnect agreement with the affected utility on or after January 1, 2026:

(1) The generating capacity of a customer-generator's renewable energy resource as approved by the affected utility shall not exceed export capacity by more than 50%; and

(2) energy storage capacity, including electric vehicles or other portable energy storage devices, shall not be included in any sizing formulas unless the energy storage device has the ability to add export capacity and is not part of an export limited system.

(e) For customer-generators that operate a generation resource designed to export an amount of power that differs from the system's generating capacity:

(1) The customer-generator shall own and maintain any necessary export limiting device;

(2) protections shall be in place to restrict the export limiting device settings to qualified persons;

(3) the utility shall have the option to require a witness test of the export limiting device's function or set points prior to granting permission to operate;

(4) the export capacity of the system shall not be increased without prior approval from the utility;

(5) the customer-generator shall allow the utility to perform periodic witness testing of the export limiting device's function or settings upon request;

(6) if the export limiting device's settings are incorrect or if the device fails to limit the export of power below the designed export capacity for more than 15 minutes in any single event, the customer-generator shall cease operation of the system until repair or reprogramming of the limit-

ing device is completed; and

(7) the utility shall not restrict the brand or model of the limiting device if the device is approved by the generator's manufacturer or is underwriter laboratories listed to perform such operations in conjunction with the customer-generator's system.

Sec. 9. K.S.A. 66-1264, 66-1265, 66-1266 and 66-1267 and K.S.A. 2023 Supp. 66-101j and 66-1239 are hereby repealed.

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

Approved April 18, 2024.

CHAPTER 61

HOUSE BILL No. 2577

AN ACT concerning state moneys; relating to the investment and management thereof; providing discretionary authority to the state treasurer to transfer moneys certified as equivalent to the aggregate net amount received for unclaimed property to the board of trustees of the Kansas public employees retirement system and to liquidate such moneys for investment by the pooled money investment board or for necessary payments to owners of unclaimed property; amending K.S.A. 2023 Supp. 75-2263 and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 75-2263 is hereby amended to read as follows: 75-2263. (a) *(1) The state treasurer shall certify to the board of trustees a portion of state moneys available for investment by the pooled money investment board that is equivalent to the aggregate net amount received for unclaimed property. The state treasurer may transfer the amount certified to the board of trustees. All such moneys shall be considered moneys in the state treasury for purposes of K.S.A. 75-6704, and amendments thereto.*

(2) Subject to the provisions of subsection ~~(j)~~ *(h)*, the board of trustees is responsible for the management and investment of that portion of state moneys available for investment by the pooled money investment board that is certified by the state treasurer to the board of trustees as being equivalent to the aggregate net amount received for unclaimed property and shall discharge the board's duties with respect to such moneys solely in the interests of the state general fund and shall invest and reinvest such moneys and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of such moneys within the limitations and according to the powers, duties and purposes as prescribed by this section.

(b) Moneys specified in subsection (a) shall be invested and reinvested to achieve the investment objective, which is preservation of such moneys and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this section. No such moneys shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

(c) In investing and reinvesting moneys specified in subsection (a) and in acquiring, retaining, managing and disposing of investments of the moneys, the board of trustees shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, ~~which~~ *that* persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the

moneys so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar moneys, considering the probable income as well as the probable safety of their capital.

(d) In the discharge of such management and investment responsibilities the board of trustees may*:*

(1) Contract for the services of one or more professional investment advisors or other consultants in the management and investment of such moneys and otherwise in the performance of the duties of the board of trustees under this section*; and*

(2) arrange for the custody of such moneys as the board of trustees considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale.

(e) The board of trustees shall require that each person contracted with under subsection (d) to provide services shall obtain commercial insurance that provides for errors and omissions coverage for such person in an amount to be specified by the board of trustees. The amount of such coverage specified by the board of trustees shall be at least the greater of $500,000 or 1% of the funds entrusted to such person up to a maximum of $10,000,000. The board of trustees shall require a person contracted with under subsection (d) to provide services to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board of trustees, with corporate surety authorized to do business in this state. Such persons contracted with the board of trustees pursuant to subsection (d) and any persons contracted with such persons to perform the functions specified in subsection (b) shall be deemed to be fiduciary agents of the board of trustees in the performance of contractual obligations.

(f) (1) Subject to the objective set forth in subsection (b) and the standards set forth in subsection (c), the board of trustees shall formulate and adopt policies and objectives for the investment and reinvestment of such moneys and the acquisition, retention, management and disposition of investments of the moneys. Such policies and objectives shall be in writing and shall include:

(A) Specific asset allocation standards and objectives;

(B) establishment of criteria for evaluating the risk versus the potential return on a particular investment; and

(C) a requirement that all investment advisors, and any managers or others with similar duties and responsibilities as investment advisors, shall immediately report all instances of default on investments to the board of

trustees and provide such board of trustees with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment.

(2) The board of trustees shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

~~(g) Except as provided in subsection (d) and this subsection, the custody of such moneys shall remain in the custody of the state treasurer, except that the board of trustees may arrange for the custody of such moneys as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. All such moneys shall be considered moneys in the state treasury for purposes of K.S.A. 75-6704, and amendments thereto.~~

~~(h)~~ All interest or other income of the investments of the moneys invested under this section, after payment of any management fees, shall be deposited in the state treasury to the credit of the state general fund.

~~(i) The state treasurer shall certify to the board of trustees a portion of state moneys available for investment by the pooled money investment board that is equivalent to the aggregate net amount received for unclaimed property. The state treasurer shall transfer the amount certified to the board of trustees.~~

~~(j)~~*(h) The state treasurer shall maintain the discretionary authority to liquidate some or a portion of such moneys transferred to the board of trustees pursuant to subsection (a) for:*

(1) Investment by the pooled money investment board; or

(2) necessary payments to owners as defined in K.S.A. 58-3934(m), and amendments thereto.

(i) As used in this section:

(1) "Board of trustees" means the board of trustees of the Kansas public employees retirement system established by K.S.A. 74-4905, and amendments thereto.

(2) "Fiduciary" means a person who, with respect to the moneys invested under this section:

(A) Exercises any discretionary authority with respect to administration of the moneys;

(B) exercises any authority to invest or manage such moneys or has any authority or responsibility to do so;

(C) provides investment advice for a fee or other direct or indirect compensation with respect to such moneys or has any authority or responsibility to do so;

(D) provides actuarial, accounting, auditing, consulting, legal or other professional services for a fee or other direct or indirect compensation with respect to such moneys or has any authority or responsibility to do so; or

(E) is a member of the board of trustees or of the staff of the board of trustees.

(3) "Pooled money investment board" means the pooled money investment board established by K.S.A. 75-4221a, and amendments thereto.

Sec. 2. K.S.A. 2023 Supp. 75-2263 is hereby repealed.

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

Approved April 18, 2024.

CHAPTER 62

House Substitute for SENATE BILL No. 73

AN ACT concerning education; relating to the Kansas school equity and enhancement act; requiring school district enrollment to be determined using the current school year or preceding school year enrollment; amending K.S.A. 2023 Supp. 72-5132 and repealing the existing section.

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

Section 1. K.S.A. 2023 Supp. 72-5132 is hereby amended to read as follows: 72-5132. As used in the Kansas school equity and enhancement act, K.S.A. 72-5131 et seq., and amendments thereto:

(a) "Adjusted enrollment" means the enrollment of a school district, excluding the remote enrollment determined pursuant to K.S.A. 2023 Supp. 72-5180, and amendments thereto, adjusted by adding the following weightings, if any, to the enrollment of a school district: At-risk student weighting; bilingual weighting; career technical education weighting; high-density at-risk student weighting; high enrollment weighting; low enrollment weighting; school facilities weighting; ancillary school facilities weighting; cost-of-living weighting; special education and related services weighting; and transportation weighting.

(b) "Ancillary school facilities weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5158, and amendments thereto, on the basis of costs attributable to commencing operation of one or more new school facilities by such school districts.

(c) (1) "At-risk student" means a student who is eligible for free meals under the national school lunch act, and who is enrolled in a school district that maintains an approved at-risk student assistance program.

(2) "At-risk student" does not include any student enrolled in any of the grades one through 12 who is in attendance less than full time, or any student who is over 19 years of age. The provisions of this paragraph shall not apply to any student who has an individualized education program.

(d) "At-risk student weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5151(a), and amendments thereto, on the basis of costs attributable to the maintenance of at-risk educational programs by such school districts.

(e) "Base aid for student excellence" or "BASE aid" means an amount appropriated by the legislature in a fiscal year for the designated year. The amount of BASE aid shall be as follows:

(1) For school year 2018-2019, $4,165;

(2) for school year 2019-2020, $4,436;

(3) for school year 2020-2021, $4,569;

(4) for school year 2021-2022, $4,706;

(5) for school year 2022-2023, $4,846; and

(6) for school year 2023-2024, and each school year thereafter, the BASE aid shall be the BASE aid amount for the immediately preceding school year plus an amount equal to the average percentage increase in the consumer price index for all urban consumers in the midwest region as published by the bureau of labor statistics of the United States department of labor during the three immediately preceding school years rounded to the nearest whole dollar amount.

(f) "Bilingual weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5150, and amendments thereto, on the basis of costs attributable to the maintenance of bilingual educational programs by such school districts.

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

(h) "Budget per student" means the general fund budget of a school district divided by the enrollment of the school district.

(i) "Categorical fund" means and includes the following funds of a school district: Adult education fund; adult supplementary education fund; at-risk education fund; bilingual education fund; career and postsecondary education fund; driver training fund; educational excellence grant program fund; extraordinary school program fund; food service fund; parent education program fund; preschool-aged at-risk education fund; professional development fund; special education fund; and summer program fund.

(j) "Cost-of-living weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5159, and amendments thereto, on the basis of costs attributable to the cost of living in such school districts.

(k) "Current school year" means the school year during which state foundation aid is determined by the state board under K.S.A. 72-5134, and amendments thereto.

(l) *(1)* "Enrollment" means, except as provided in K.S.A. 2023 Supp. 72-5180, and amendments thereto, *whichever is the greater of*:

~~(1)~~*(A) The number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the current school year plus the number of preschool-aged at-risk students regularly enrolled in the school district on September 20 of the current school year;*

(B) the number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the preceding school year plus the number of preschool-aged at-risk students regularly enrolled in the school district on September 20 of the current school year~~, except a student who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the school district on September 20 and attending kindergarten or any of the grades one~~

~~through 12 maintained by the school district for at least one semester or two quarters, or the equivalent thereof.~~

~~(2) If the enrollment in a school district in the preceding school year has decreased from enrollment in the second preceding school year, the enrollment of the school district in the current school year means the sum of:~~

~~(A) the enrollment in the second preceding school year, excluding students under paragraph (2)(B), minus enrollment in the preceding school year of preschool-aged at-risk students, if any, plus enrollment in the current school year of preschool-aged at-risk students, if any; and~~

~~(B) the adjusted enrollment in the second preceding school year of any students participating in the tax credit for low income students scholarship program pursuant to K.S.A. 72-4351 et seq., and amendments thereto, in the preceding school year, if any, plus the adjusted enrollment in the preceding school year of preschool-aged at-risk students who are participating in the tax credit for low income students scholarship program pursuant to K.S.A. 72-4351 et seq., and amendments thereto, in the current school year, if any.;*

~~(3)~~*(C)* for any school district that has a military student, as that term is defined in K.S.A. 72-5139, and amendments thereto, enrolled in such district, and that received federal impact aid for the preceding school year, if the enrollment in such school district in the preceding school year has decreased from enrollment in the second preceding school year, the enrollment of the school district in the current school year means whichever is the greater of:

~~(A)~~*(i)* The enrollment *amounts* determined under ~~paragraph (2)~~ *subparagraphs (A) or (B)*; or

~~(B)~~*(ii)* the sum of ~~the enrollment in the preceding school year of~~ *the number of* preschool-aged at-risk students *regularly enrolled in the school district on September 20 of the preceding school year*~~, if any,~~ and the arithmetic mean of the sum of:

~~(i)~~*(a)* The ~~enrollment of the~~ *number of students regularly enrolled in kindergarten and grades one through 12 in the* school district ~~in~~ *on September 20 of* the preceding school year ~~minus the enrollment in such school year of preschool-aged at-risk students, if any~~;

~~(ii)~~*(b)* the ~~enrollment in the~~ *number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the* second preceding school year ~~minus the enrollment in such school year of preschool-aged at-risk students, if any~~; and

~~(iii)~~*(c)* the ~~enrollment in the~~ *number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the* third preceding school year ~~minus the enrollment in such school year of preschool-aged at-risk students, if any~~*; or*

(D) for school year 2024-2025, the number of preschool-aged at-risk students regularly enrolled in the school district on September 20 of the current school year and the arithmetic mean of the sum of:

(i) The number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the preceding school year; and

(ii) the number of students regularly enrolled in kindergarten and grades one through 12 in the school district on September 20 of the second preceding school year.

~~(4)~~*(2)* ~~The~~*When* enrollment *is* determined under paragraph (1), ~~(2) or (3), except~~ if the school district begins to offer kindergarten on a full-time basis in such school year, students regularly enrolled in kindergarten in the school district in the preceding school year shall be counted as one student regardless of actual attendance during such preceding school year.

(3) A foreign exchange student shall not be counted in the enrollment of a school district unless such student was regularly enrolled on September 20 and attending kindergarten or any of the grades one through 12 maintained by the district for at least one semester or two quarters, or the equivalent thereof.

(m) "February 20" has its usual meaning, except that in any year in which February 20 is not a day on which school is maintained, it means the first day after February 20 on which school is maintained.

(n) "Federal impact aid" means an amount equal to the federally qualified percentage of the amount of moneys a school district receives in the current school year under the provisions of title I of public law 874 and congressional appropriations therefor, excluding amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program. The amount of federal impact aid shall be determined by the state board in accordance with terms and conditions imposed under the provisions of the public law and rules and regulations thereunder.

(o) "General fund" means the fund of a school district from which operating expenses are paid and in which is deposited all amounts of state foundation aid provided under this act, payments under K.S.A. 72-528, and amendments thereto, payments of federal funds made available under the provisions of title I of public law 874, except amounts received for assistance in cases of major disaster and amounts received under the low-rent housing program and such other moneys as are provided by law.

(p) "General fund budget" means the amount budgeted for operating expenses in the general fund of a school district.

(q) "High-density at-risk student weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A.

72-5151(b), and amendments thereto, on the basis of costs attributable to the maintenance of at-risk educational programs by such school districts.

(r) "High enrollment weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5149(b), and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such school districts.

(s) "Juvenile detention facility" means the same as such term is defined in K.S.A. 72-1173, and amendments thereto.

(t) "Local foundation aid" means the sum of the following amounts:

(1) An amount equal to any unexpended and unencumbered balance remaining in the general fund of the school district, except moneys received by the school district and authorized to be expended for the purposes specified in K.S.A. 72-5168, and amendments thereto;

(2) an amount equal to any remaining proceeds from taxes levied under authority of K.S.A. 72-7056 and 72-7072, prior to their repeal;

(3) an amount equal to the amount deposited in the general fund in the current school year from moneys received in such school year by the school district under the provisions of K.S.A. 72-3123(a), and amendments thereto;

(4) an amount equal to the amount deposited in the general fund in the current school year from moneys received in such school year by the school district pursuant to contracts made and entered into under authority of K.S.A. 72-3125, and amendments thereto;

(5) an amount equal to the amount credited to the general fund in the current school year from moneys distributed in such school year to the school district under the provisions of articles 17 and 34 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and under the provisions of articles 42 and 51 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto;

(6) an amount equal to the amount of payments received by the school district under the provisions of K.S.A. 72-3423, and amendments thereto; and

(7) an amount equal to the amount of any grant received by the school district under the provisions of K.S.A. 72-3425, and amendments thereto.

(u) "Low enrollment weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5149(a), and amendments thereto, on the basis of costs attributable to maintenance of educational programs by such school districts.

(v) "Operating expenses" means the total expenditures and lawful transfers from the general fund of a school district during a school year for all purposes, except expenditures for the purposes specified in K.S.A. 72-5168, and amendments thereto.

(w) "Preceding school year" means the school year immediately before the current school year.

(x) "Preschool-aged at-risk student" means an at-risk student who has attained the age of three years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines governing the selection of students for participation in head start programs.

(y) "Preschool-aged exceptional children" means exceptional children, except gifted children, who have attained the age of three years but are under the age of eligibility for attendance at kindergarten. "Exceptional children" and "gifted children" mean the same as those terms are defined in K.S.A. 72-3404, and amendments thereto.

(z) "Psychiatric residential treatment facility" means the same as such term is defined in K.S.A. 72-1173, and amendments thereto.

(aa) (1) "Remote enrollment" means the number of students regularly enrolled in kindergarten and grades one through 12 in the school district who attended school through remote learning in excess of the remote learning limitations provided in K.S.A. 2023 Supp. 72-5180, and amendments thereto.

(2) This subsection shall not apply in any school year prior to the 2021-2022 school year.

(bb) (1) "Remote learning" means a method of providing education in which the student, although regularly enrolled in a school district, does not physically attend the attendance center such student would otherwise attend in person on a full-time basis and curriculum and instruction are prepared, provided and supervised by teachers and staff of such school district to approximate the student learning experience that would take place in the attendance center classroom.

(2) "Remote learning" does not include virtual school as such term is defined in K.S.A. 72-3712, and amendments thereto.

(3) This subsection shall not apply in any school year prior to the 2021-2022 school year.

(cc) "School district" means a school district organized under the laws of this state that is maintaining public school for a school term in accordance with the provisions of K.S.A. 72-3115, and amendments thereto.

(dd) "School facilities weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5156, and amendments thereto, on the basis of costs attributable to commencing operation of one or more new school facilities by such school districts.

(ee) "School year" means the 12-month period ending June 30.

(ff) "September 20" has its usual meaning, except that in any year in which September 20 is not a day on which school is maintained, it means the first day after September 20 on which school is maintained.

(gg) "Special education and related services weighting" means an addend component assigned to the enrollment of school districts pursuant

to K.S.A. 72-5157, and amendments thereto, on the basis of costs attributable to the maintenance of special education and related services by such school districts.

(hh) "State board" means the state board of education.

(ii) "State foundation aid" means the amount of aid distributed to a school district as determined by the state board pursuant to K.S.A. 72-5134, and amendments thereto.

(jj) (1) "Student" means any person who is regularly enrolled in a school district and attending kindergarten or any of the grades one through 12 maintained by the school district or who is regularly enrolled in a school district and attending kindergarten or any of the grades one through 12 in another school district in accordance with an agreement entered into under authority of K.S.A. 72-13,101, and amendments thereto, or who is regularly enrolled in a school district and attending special education services provided for preschool-aged exceptional children by the school district.

(2) (A) Except as otherwise provided in this subsection, the following shall be counted as one student:

(i) A student in attendance ~~full-time~~ *full time*; and

(ii) a student enrolled in a school district and attending special education and related services, provided for by the school district.

(B) The following shall be counted as $^1/_2$ student:

(i) A student enrolled in a school district and attending special education and related services for preschool-aged exceptional children provided for by the school district; and

(ii) a preschool-aged at-risk student enrolled in a school district and receiving services under an approved at-risk student assistance plan maintained by the school district.

(C) A student in attendance part-time shall be counted as that proportion of one student, to the nearest $^1/_{10}$, that the student's attendance bears to full-time attendance.

(D) A student enrolled in and attending an institution of postsecondary education that is authorized under the laws of this state to award academic degrees shall be counted as one student if the student's postsecondary education enrollment and attendance together with the student's attendance in either of the grades 11 or 12 is at least $^5/_6$ time, otherwise the student shall be counted as that proportion of one student, to the nearest $^1/_{10}$, that the total time of the student's postsecondary education attendance and attendance in grades 11 or 12, as applicable, bears to full-time attendance.

(E) A student enrolled in and attending a technical college, a career technical education program of a community college or other approved career technical education program shall be counted as one student, if

the student's career technical education attendance together with the student's attendance in any of grades nine through 12 is at least 5/6 time, otherwise the student shall be counted as that proportion of one student, to the nearest 1/10, that the total time of the student's career technical education attendance and attendance in any of grades nine through 12 bears to full-time attendance.

(F) A student enrolled in a school district and attending a non-virtual school and also attending a virtual school shall be counted as that proportion of one student, to the nearest 1/10, that the student's attendance at the non-virtual school bears to full-time attendance.

(G) A student enrolled in a school district and attending special education and related services provided for by the school district and also attending a virtual school shall be counted as that proportion of one student, to the nearest 1/10, that the student's attendance at the non-virtual school bears to full-time attendance.

(H) A student enrolled in a school district and attending school on a part-time basis through remote learning and also attending school in person on a part-time basis shall be counted as that proportion of one student, to the nearest 1/10, that the student's in-person attendance bears to full-time attendance.

(I) A student enrolled in a school district who is not a resident of Kansas shall be counted as 1/2 of a student.

This subparagraph shall not apply to:

(i) A student whose parent or legal guardian is an employee of the school district where such student is enrolled; or

(ii) a student who attended public school in Kansas during school year 2016-2017 and who attended public school in Kansas during the immediately preceding school year.

(3) The following shall not be counted as a student:

(A) An individual residing at the Flint Hills job corps center;

(B) except as provided in paragraph (2), an individual confined in and receiving educational services provided for by a school district at a juvenile detention facility; and

(C) an individual enrolled in a school district but housed, maintained and receiving educational services at a state institution or a psychiatric residential treatment facility.

(4) A student enrolled in virtual school pursuant to K.S.A. 72-3711 et seq., and amendments thereto, shall be counted in accordance with the provisions of K.S.A. 72-3715, and amendments thereto.

(5) A student enrolled in a school district who attends school through remote learning shall be counted in accordance with the provisions of this section and K.S.A. 2023 Supp. 72-5180, and amendments thereto.

(kk) "Total foundation aid" means an amount equal to the product

obtained by multiplying the BASE aid by the adjusted enrollment of a school district.

(ll) "Transportation weighting" means an addend component assigned to the enrollment of school districts pursuant to K.S.A. 72-5148, and amendments thereto, on the basis of costs attributable to the provision or furnishing of transportation.

(mm) "Virtual school" means the same as such term is defined in K.S.A. 72-3712, and amendments thereto.

Sec. 2. K.S.A. 2023 Supp. 72-5132 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 19, 2024.

CHAPTER 63

HOUSE BILL No. 2562
(Amended by Chapter 100)

AN ACT concerning consumer protection; relating to financial exploitation, real estate transactions and housing discrimination; enacting the protect vulnerable adults from financial exploitation act; requiring reporting of instances of suspected financial exploitation under certain circumstances; providing civil and administrative immunity to individuals who report such instances; authorizing the Kansas real estate commission to issue cease and desist orders; regulating contract for deed transactions; providing for certain penalties related thereto; making certain deceptive actions violations of the consumer protection act; prohibiting the recording of unlawful restrictive covenants; authorizing the removal of unlawful restrictive covenants; amending K.S.A. 17-12a412, 44-1017a and 58-3065 and repealing the existing sections.

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

New Section 1. Sections 1 through 9, and amendments thereto, shall be known and may be cited as the protect vulnerable adults from financial exploitation act.

New Sec. 2. As used in the protect vulnerable adults from financial exploitation act:

(a) "Act" means the protect vulnerable adults from financial exploitation act.

(b) "Agent" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(c) "Broker-dealer" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(d) "Commissioner" means the securities commissioner of Kansas.

(e) "Eligible adult" means an elder person or dependent adult as defined in K.S.A. 21-5417, and amendments thereto.

(f) "Financial exploitation" means the unlawful or improper use, control or withholding of an eligible 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 eligible adult. "Financial exploitation" includes, but is not limited to, the:

(1) Use of deception, intimidation, coercion, extortion or undue influence by a person or entity to obtain or use an eligible 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) 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 eligible adult; or

(3) obtainment or use of an eligible adult's property, income, resources or trust funds, without lawful authority, by a person or entity who knows

or clearly should know that the eligible adult lacks the capacity to consent to the release or use of such eligible adult's property, income, resources or trust funds.

(g) "Investment adviser" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(h) "Investment adviser representative" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(i) "Person reasonably associated with the eligible adult" means:

(1) A person authorized to transact business on the account of the eligible adult;

(2) an eligible adult's spouse, child, parent or sibling;

(3) a person who was previously designated by the eligible adult to receive information under a customer agreement;

(4) a legal guardian or conservator of the eligible adult;

(5) a trustee, co-trustee or successor trustee of the account of the eligible adult;

(6) a person named as a beneficiary on an account of the eligible adult;

(7) an agent under a power of attorney of the eligible adult; or

(8) any other person permitted to be notified under existing state or federal law, regulation or the rules of a self-regulatory organization, as defined in K.S.A. 17-12a102, and amendments thereto.

(j) "Protective agencies" means the commissioner and the Kansas department for children and families.

(k) "Qualified person" means any agent, broker-dealer, investment adviser, investment adviser representative or person who serves in a supervisory, compliance or legal capacity for a broker-dealer or investment adviser.

New Sec. 3. If a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted or is being attempted, the broker-dealer or investment adviser shall promptly report the matter to the protective agencies, which may further report the matter as permitted or required by law.

New Sec. 4. A qualified person who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 3, and amendments thereto, shall be immune from administrative and civil liability that might otherwise arise from such disclosure or for any failure to notify the eligible adult of such disclosure.

New Sec. 5. A qualified person who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 3, and amendments thereto, may notify any person reasonably associated with the eligible adult of the disclosure, unless the qualified person suspects that such person reasonably associated with the eligible adult has committed or attempted financial exploitation of such eligible adult.

New Sec. 6. A qualified person who, in good faith and exercising reasonable care, complies with the provisions of section 5, and amendments thereto, shall be immune from any administrative and civil liability that might otherwise arise from such disclosure.

New Sec. 7. (a) A broker-dealer or investment adviser may delay a transaction associated with or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) A qualified person reasonably believes, after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation, that the requested transaction or disbursement may further financial exploitation of an eligible adult; and

(2) the broker-dealer or investment adviser:

(A) Immediately, and in no event more than two business days after the date that a requested transaction or disbursement is delayed, provides written notification of the delay and the reason for such delay to all parties authorized to transact business on the account, unless such qualified person reasonably believes that any such party is engaged in suspected or attempted financial exploitation of the eligible adult;

(B) immediately, and in no event more than two business days after the requested transaction or disbursement is delayed, notifies the protective agencies; and

(C) continues such internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary and reports the results of such investigation to the protective agencies upon request.

(b) Any delay of a transaction or disbursement authorized by this section shall expire upon the soonest of:

(1) A determination by the broker-dealer or investment adviser that the transaction or disbursement will not result in financial exploitation of the eligible adult; or

(2) 15 business days following the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement, unless either of the protective agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay shall expire not more than 25 business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement if not terminated sooner or further extended by either of the protective agencies or an order of a court of competent jurisdiction.

(c) A court of competent jurisdiction may enter an order extending the delay of the transaction or disbursement or may order other protective relief based on the petition of either of the protective agencies, the broker-dealer or investment adviser that initiated the delay under this section or another interested party.

New Sec. 8. A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with the provisions of section 7, and amendments thereto, shall be immune from any administrative and civil liability that might otherwise arise from such delay of a transaction or disbursement in accordance with this act.

New Sec. 9. (a) A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the protective agencies and to law enforcement agencies, either as part of a referral to the protective agencies or to law enforcement agencies or upon request of either protective agency or law enforcement agency pursuant to an investigation. The records may include historical records and records relating to the most recent transaction or transactions that may constitute financial exploitation of an eligible adult.

(b) No record made available to the commissioner or other agencies under this act shall be considered a public record under the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(c) Notwithstanding any provision of law to the contrary, the protective agencies shall respond to reasonable inquiries from the notifying qualified person and may disclose to the notifying qualified person the general status or final disposition of any investigation that arose from a report made by such qualified person.

(d) Nothing in this act shall limit or otherwise impede the authority of the commissioner to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

New Sec. 10. (a) Sections 10 through 13, and amendments thereto, shall be known and may be cited as the Kansas contract for deed act.

(b) As used in sections 10 through 13, and amendments thereto:

(1) "Buyer" means a person who purchases property subject to a contract for deed or any legal successor in interest to the buyer.

(2) "Contract for deed" means an executory agreement in which the seller agrees to convey title to real property to the buyer and the buyer agrees to pay the purchase price in five or more subsequent payments exclusive of the down payment, if any, while the seller retains title to the property as security for the buyer's obligation. Option contracts for the purchase of real property are not contracts for deed.

(3) "Property" means real property located in this state upon which there is located or will be located a structure designed principally for occupancy of one to four families that is or will be occupied by the buyer as the buyer's principal place of residence.

(4) "Seller" means any person who makes a sale of property by means of a contract for deed or any legal successor in interest to the seller.

New Sec. 11. (a) Any contract for deed or affidavit of equitable interest may be recorded in the office of the county register of deeds where the property is located by any interested person.

(b) Following the notice and opportunity to cure provided for in section 13(c), and amendments thereto, the buyer shall have 15 days to:

(1) Record a record of release of affidavit of equitable interest or contract for deed, if such affidavit or contract were recorded; and

(2) vacate the premises, if applicable.

(c) If the buyer fails to satisfy the conditions under subsection (b), then such buyer shall be responsible for the seller's reasonable attorney fees, costs and expenses for the removal of the affidavit of equitable interest or contract for deed from the title and eviction of the buyer from the premises, if applicable.

New Sec. 12. (a) A seller shall not execute a contract for deed with a buyer if the seller does not hold title to the property. Except as provided further, a seller shall maintain fee simple title to the property free from any mortgage, lien or other encumbrance for the duration of the contract for deed. This subsection shall not apply to a mortgage, lien or encumbrance placed on the property:

(1) Due to the conduct of the buyer;

(2) with the agreement of the buyer as a condition of a loan obtained to make improvements on the property; or

(3) by the seller prior to the execution of the contract for deed if:

(A) The seller disclosed the mortgage, lien or encumbrance to the buyer;

(B) the seller continues to make timely payments on the outstanding mortgage, lien or other encumbrance;

(C) the seller disclosed the contract for deed to the mortgagee, lienholder or other party of interest; and

(D) the seller satisfies and obtains a release of the mortgage, lien or other encumbrance not later than the date the buyer makes final payment on the contract for deed unless the buyer assumes the mortgage, lien or other encumbrance as part of the contract for deed.

(b) Any violation of this section is a deceptive act or practice under the provisions of the Kansas consumer protection act and shall be subject to any and all of the enforcement provisions of the Kansas consumer protection act.

New Sec. 13. (a) A buyer's rights under a contract for deed shall not be forfeited or canceled except as provided in this section, notwithstanding any provision in the contract providing for forfeiture of buyer's rights.

Nothing in this section shall be construed to limit the power of the district court to require proceedings in equitable foreclosure.

(b) The buyer's rights under a contract for deed shall not be forfeited until the buyer has been notified of the intent to forfeit as provided in subsection (c) and has been given a right to cure the default, and such buyer has failed to do so within the time period allowed. A timely tender of cure shall reinstate the contract for deed.

(c) A notice of default and intent to forfeit shall:

(1) Reasonably identify the contract and describe the property covered by it;

(2) specify the terms and conditions of the contract with which the buyer has not complied; and

(3) notify the buyer that the contract will be forfeited unless the buyer performs the terms and conditions within the following periods of time:

(A) If the buyer has paid less than 50% of the purchase price, 30 days from completed service of notice; or

(B) if the buyer has paid 50% or more of the purchase price, 90 days from completed service of notice.

(d) A notice of default and intent to forfeit shall be served on the buyer in person, or by leaving a copy at the buyer's usual place of residence with someone of suitable age and discretion who resides at such place of residence, or by certified mail or priority mail, return receipt requested, addressed to the buyer at the buyer's usual place of residence.

(e) Nothing in this section shall be construed to preclude the buyer or the seller from pursuing any other remedy at law or equity.

New Sec. 14. (a) Any restrictive covenant recitals on real property contained in any deed, plat, declaration, restriction, covenant or other conveyance filed at any time in the office of the register of deeds in any county in violation of K.S.A. 44-1016 or 44-1017, and amendments thereto, shall be void and unenforceable.

(b) A restrictive covenant that violates K.S.A. 44-1016 or 44-1017, and amendments thereto, may be released by the owner of the real property subject to such covenant by recording a certificate of release of prohibited covenants. Such certificate may be recorded prior to recording of a document conveying any interest in such real property or at such other time as the owner discovers that such prohibited covenant exists. Any certificate recorded with the register of deeds shall be subject to recording fees pursuant to K.S.A. 28-115, and amendments thereto. A certificate of release of prohibited covenants shall contain:

(1) The name of the current owner of the real property;

(2) a legal description of the real property;

(3) the volume and page or the document number in which the original document containing the restrictive covenant is recorded;

(4) a brief description of the restrictive covenant; and

(5) the citation to the location of the restrictive covenant in the original document.

Sec. 15. K.S.A. 17-12a412 is hereby amended to read as follows: 17-12a412. (a) *Disciplinary conditions — applicants.* An order issued under this act may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative if the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d) against the applicant or, if the applicant is a broker-dealer or investment adviser, against any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) *Disciplinary conditions — registrants.* An order issued under this act may revoke, suspend, condition, or limit the registration of a registrant if the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d) against the registrant or, if the registrant is a broker-dealer or investment adviser, against any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the administrator:

(1) May not institute a revocation or suspension proceeding under this subsection based on an order issued by another state that is reported to the administrator or designee later than one year after the date of the order on which it is based; and

(2) under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) *Disciplinary penalties — registrants.* If the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d)(1) through (6), (8), (9), (10), (12) or (13) against a registrant or, if the registrant is a broker-dealer or investment adviser, against any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser, then the administrator may enter an order against the registrant containing one or more of the following sanctions or remedies:

(1) A censure;

(2) a bar or suspension from association with a broker-dealer or investment adviser registered in this state;

(3) a civil penalty up to $25,000 for each violation. If any person is found to have violated any provision of this act, and such violation is com-

mitted against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed $15,000 for each such violation. The total penalty against a person shall not exceed $1,000,000;

(4) an order requiring the registrant to pay restitution for any loss or disgorge any profits arising from a violation, including, in the administrator's discretion, the assessment of interest from the date of the violation at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto;

(5) an order charging the registrant with the actual cost of an investigation or proceeding; or

(6) an order requiring the registrant to cease and desist from any action that constitutes a ground for discipline, or to take other action necessary or appropriate to comply with this act.

(d) *Grounds for discipline.* A person may be disciplined under subsections (a) through (c) if the person:

(1) Has filed an application for registration in this state under this act or the predecessor act within the previous 10 years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years;

(3) has been convicted of a felony or within the previous 10 years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this act or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;

(5) is the subject of an order, issued after notice and opportunity for hearing by:

(A) The securities, depository institution, insurance, or other financial services regulator of a state or by the securities and exchange commission or other federal agency denying, revoking, barring, or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;

(B) the securities regulator of a state or by the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative, or federal covered investment adviser;

(C) the securities and exchange commission or by a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;

(D) a court adjudicating a United States postal service fraud order;

(E) the insurance regulator of a state denying, suspending, or revoking the registration of an insurance agent; or

(F) a depository institution regulator suspending or barring a person from the depository institution business;

(6) is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission, the federal trade commission, a federal depository institution regulator, or a depository institution, insurance, or other financial services regulator of a state that the person willfully violated the securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, the securities or commodities law of a state, or a federal or state law under which a business involving investments, franchises, insurance, banking, or finance is regulated;

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the administrator may not enter an order against an applicant or registrant under this paragraph without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under K.S.A. 17-12a411(d), and amendments thereto, refuses access to a registrant's office to conduct an audit or inspection under K.S.A. 17-12a411(d), and amendments thereto, fails to keep or maintain sufficient records to permit an audit disclosing the condition of the registrant's business, or fails willfully and without cause to comply with a request for information by the administrator or person designated by the administrator in conducting investigations or examinations under this act;

(9) has failed to reasonably supervise an agent, investment adviser representative, or other individual, if the agent, investment adviser representative, or other individual was subject to the person's supervision and committed a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years;

(10) has not paid the proper filing fee within 30 days after having been notified by the administrator of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

(11) after notice and opportunity for a hearing, has been found within the previous 10 years:

(A) By a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking, or finance is regulated;

(B) to have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative, or similar person; or

(C) to have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction;

(12) is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a state;

(13) has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous 10 years;

(14) is not qualified on the basis of factors such as training, experience, and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The administrator may require an applicant for registration under K.S.A. 17-12a402 or 17-12a404, and amendments thereto, who has not been registered in a state within the two years preceding the filing of an application in this state to successfully complete an examination; ~~or~~

(15) lacks sufficient character or reputation to warrant the public trust*; or*

(16) was required to report information under the protect vulnerable adults from financial exploitation act and knowingly failed to make such a report or knowingly caused such report not to be made within the previous 10 years.

(e) *Examinations.* A rule adopted or order issued under this act may require that an examination, including an examination developed or approved by an organization of securities regulators, be successfully completed by a class of individuals or all individuals. An order issued under this act may waive, in whole or in part, an examination as to an individual and a rule adopted under this act may waive, in whole or in part, an examination as to a class of individuals if the administrator determines that the examination is not necessary or appropriate in the public interest and for the protection of investors.

(f) *Summary process.* In accordance with the Kansas administrative ~~procedures~~ *procedure* act, the administrator may use summary or emergency proceedings to suspend or deny an application; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty or cease and desist order on a registrant before final determination of an administrative proceeding. If a hearing is not requested and none is ordered by the administrator within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(g) *Procedural requirements.* (1) An order issued may not be issued under this section, except under subsection (f), without:

(A) Appropriate notice to the applicant or registrant;

(B) opportunity for hearing; and

(C) findings of fact and conclusions of law in a record.

(2) Proceedings under this subsection shall be conducted in accordance with the Kansas administrative ~~procedures~~ *procedure* act.

(h) *Control person liability.* A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the administrator under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

(i) *Limit on investigation or proceeding.* The administrator may not institute a proceeding under subsection (a), (b)~~,~~ or (c) based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within one year after the administrator actually acquires knowledge of the material facts.

Sec. 16. K.S.A. 44-1017a is hereby amended to read as follows: 44-1017a. (a) No declaration or other governing document of an association shall include a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto.

(b) Within 60 days of the effective date of this act, the board of directors of an association shall amend any declaration or other governing document that includes a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, by removing such restrictive covenant. Such amendment shall not require the approval of the members of the association. No other change shall be required to be made to the declaration or other governing document of the association pursuant to this section. Within 10 days of the adoption of the amendment, the amended declaration or other governing document shall be recorded in the same manner as the original declaration or other governing document *and shall*

be subject to recording fees pursuant to K.S.A. 28-115, and amendments thereto. ~~No fee shall be charged for such recording.~~

(c) If the commission, a city or county ~~in which~~ *where* the association is located provides written notice to an association requesting that the association delete a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the association shall delete the restrictive covenant within 30 days of receiving the notice. If the association fails to delete the restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the commission, a city or county ~~in which~~ *where* the association is located, or any person adversely affected by such restrictive covenant may bring an action against the homeowners association for injunctive relief to enforce the provisions of subsections (a) and (b) ~~of this section~~. The court may award attorney's fees to the prevailing party.

(d) *If a city or county determines that the association is no longer active such that the written notice described in subsection (c) cannot be provided to the association, then the city or county, upon adoption of a resolution by the governing body of such city or county, may remove such restrictive covenant that is in violation of K.S.A. 44-1016 or 44-1017, and amendments thereto, by recording a certificate of release of prohibited covenants in accordance with section 14, and amendments thereto. A resolution may authorize the removal of more than one restrictive covenant that is in violation of K.S.A. 44-1016 or 44-1017, and amendments thereto. No signature or other consent of any property owner affected by such recording shall be required to record any certificate of release of prohibited covenants pursuant to this subsection. Any such certificate recorded pursuant to this subsection shall not affect the validity of any property interest recorded within the original or redacted plat. No city or county shall incur any liability arising from the recording of any certificate of release of prohibited covenants pursuant to this subsection. No fee shall be charged for any recording filed pursuant to this subsection. Any such recording shall be exempt from the survey requirements of K.S.A. 58-2001 et seq., and amendments thereto.*

(e) For the purposes of this section:

(1) "Association" means a non-profit homeowners association as defined in K.S.A. 60-3611, and amendments thereto.

(2) "Commission" means the Kansas human rights commission as defined in K.S.A. 44-1002, and amendments thereto.

~~(e)~~*(f)* This section shall be *a part of and* supplemental to ~~and a part of~~ the Kansas act against discrimination.

Sec. 17. K.S.A. 58-3065 is hereby amended to read as follows: 58-3065. (a) Willful violation of any provision of this act or the brokerage relationships in real estate transactions act is a misdemeanor punishable

by imprisonment for not more than 12 months or a fine of not less than $100 or more than $1,000, or both, for the first offense and imprisonment for not more than 12 months or a fine of not less than $1,000 or more than $10,000, or both, for a second or subsequent offense.

(b) Nothing in this act or the brokerage relationships in real estate transactions act shall be construed as requiring the commission or the director to report minor violations of the acts for criminal prosecution whenever the commission or the director believes that the public interest will be adequately served by other administrative action.

(c) If the commission determines that a person or associated association, corporation, limited liability company, limited liability partnership, partnership, professional corporation or trust has practiced without a valid broker's or salesperson's license issued by the commission, in addition to any other penalties imposed by law, the commission, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against the unlicensed person.

Sec. 18. K.S.A. 17-12a412, 44-1017a and 58-3065 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 19, 2024.

CHAPTER 64

HOUSE BILL No. 2560

AN ACT concerning financial institutions; relating to entities regulated by the office of the state bank commissioner; pertaining to the state banking code; providing when an application is considered abandoned or expired; allowing an originating trustee to have such trustee's principal place of business outside of Kansas; relating to bank deposits, withdrawals and safe deposit box lease agreements; authorizing any person to become a depositor or enter into an agreement for the lease of a safe deposit box; providing methods in which bank deposits may be withdrawn by a depositor; prohibiting banks from requiring a cosigner for an account of a child in the custody of the secretary for children and families, the secretary of corrections or a federally recognized Indian tribe; enacting the Kansas money transmission act; providing oversight thereof by the commissioner; establishing powers, duties and responsibilities of the commissioner; enacting the Kansas earned wage access services act; establishing the administration of such act by the office of the state bank commissioner; providing for registration, bond requirements; duties, prohibited acts, reports, records retention, orders, civil fines, criminal penalties and fees; amending K.S.A. 9-535, 9-806, 9-1204, 9-1721 and 9-2107 and repealing the existing sections; also repealing K.S.A. 9-508, 9-509, 9-510, 9-510a, 9-511, 9-513, 9-513a, 9-513b, 9-513c, 9-513d and 9-513e and K.S.A. 2023 Supp. 9-512.

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

New Section 1. (a) Sections 1 through 42, and amendments thereto, shall be known and may be cited as the Kansas money transmission act.

(b) As used in the Kansas money transmission act:

(1) "Act" means the Kansas money transmission act.

(2) "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a licensee whether or not pursuant to an express agreement.

(3) "Authorized delegate" means a person designated by a licensee to engage in money transmission on behalf of the licensee.

(4) "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in Kansas at the end of each day in a given period of time added together and divided by the total number of days in the given period of time. For any licensee required to calculate "average daily money transmission liability" pursuant to this act, the given period of time shall be the calendar quarters ending March 31, June 30, September 30 and December 31.

(5) "Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or the issuer's affiliates or franchisees of the issuer or the franchisees's affiliates, except to the extent required by applicable law to be redeemable in cash for its cash value.

(6) "Commissioner" means the state bank commissioner, or a person designated by the state bank commissioner to enforce this act.

(7) "Control" means the power to:

(A) Vote directly or indirectly at least 25% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(B) elect or appoint a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee; or

(C) exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(8) "Eligible rating" means a credit rating from any of the three highest rating categories provided by an eligible rating service. Each rating category may include rating category modifiers such as plus or minus for Standard & Poor or the equivalent for any other eligible rating service. "Eligible rating" shall be determined as follows:

(A) Long-term credit ratings shall be deemed eligible if the rating is equal to A- or higher by Standard & Poor or the equivalent from any other eligible rating service.

(B) Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by Standard & Poor or the equivalent from any other eligible rating service. If ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

(9) "Eligible rating service" means any nationally recognized statistical rating organization that has been registered by the securities and exchange commission or any organization designated by the commissioner through order or rules and regulations as an eligible rating service.

(10) "Federally insured depository financial institution" means a bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company organized under the laws of the United States or any state of the United States, when such bank, credit union, savings and loan association, trust company, savings association, savings bank, industrial bank or industrial loan company has federally insured deposits.

(11) "In Kansas" means the:

(A) Physical location of a person who is requesting a transaction in person in the state of Kansas; or

(B) person's residential address or the principal place of business for a person requesting a transaction electronically or by telephone if such residential address or principal place of business is in the state of Kansas.

(12) "Individual" means a natural person.

(13) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, including, but not limited to, an executive officer, manager, director or trustee.

(14) "Licensee" means a person licensed under this act.

(15) "Material litigation" means litigation, that according to United

States generally accepted accounting principles, is significant to a person's financial health and would be a required disclosure in the person's annual audited financial statements, report to shareholders or similar records.

(16) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(17) "Monetary value" means a medium of exchange, whether or not redeemable in money.

(18) (A) "Money transmission" means any of the following:

(i) Selling or issuing payment instruments to a person located in Kansas;

(ii) selling or issuing stored value to a person located in Kansas;

(iii) receiving money for transmission from a person located in Kansas; or

(iv) payroll processing services.

(B) "Money transmission" does not include the provision of solely online or telecommunications services or network access.

(19) "Money service business accredited state" means a state agency that is accredited by the conference of state bank supervisors and money transmitter regulators association for money transmission licensing and supervision.

(20) "Multistate licensing process" means any agreement entered into by state regulators relating to coordinated processing of applications for money transmission licenses, applications for the acquisition of control of a licensee, control determinations or notice and information requirements for a change of key individuals.

(21) "Nationwide multistate licensing system and registry" means a licensing system developed by the conference of state bank supervisors and the American association of residential mortgage regulators and owned and operated by the state regulatory registry, limited liability company or any successor or affiliated entity for the licensing and registration of persons in financial services industries.

(22) (A) "Outstanding money transmission obligation" means:

(i) Any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee or escheated in accordance with applicable abandoned property laws; or

(ii) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender or escheated in accordance with applicable abandoned property laws.

(B) "In the United States" includes a person in any state, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico or a United States military installation that is located in a foreign country.

(23) "Passive investor" means a person that:

(A) Does not have the power to elect a majority of key individuals or executive officers, managers, directors, trustees or other persons exercising managerial authority of a person in control of a licensee;

(B) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee; or

(C) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and

(D) (i) Either attests to subparagraphs (A), (B) and (C) in a form and in a manner prescribed by the commissioner; or

(ii) commits to the passivity characteristics of subparagraphs (A), (B) and (C) in a written document.

(24) (A) "Payment instrument" means a written or electronic check, draft, money order, traveler's check or other written or electronic instrument for the transmission or payment of money or monetary value, regardless of negotiability.

(B) "Payment instrument" does not include stored value or any instrument that is:

(i) Redeemable by the issuer only for goods or services provided by the issuer or the issuer's affiliate or franchisees of the issuer or the franchisees' affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or

(ii) not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.

(25) "Payroll processing services" means the receipt of money for transmission pursuant to a contract with a person to deliver wages or salaries, make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans or make distributions of other authorized deductions from wages or salaries. "Payroll processing services" does not include an employer performing payroll processing services on the employer's own behalf or on behalf of an affiliate.

(26) "Person" means any individual, general partnership, limited partnership, limited liability company, corporation, trust, association, joint stock corporation or other corporate entity identified or recognized by the commissioner.

(27) "Receiving money for transmission" or "money received for transmission" means the receipt of money or monetary value in the Unit-

ed States for transmission within or outside the United States by electronic or other means.

(28) "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record and that is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services. "Stored value" includes, but is not limited to, prepaid access as defined by 31 C.F.R. § 1010.100. "Stored value" does not include a payment instrument or closed loop stored value or stored value not sold to the public but issued and distributed as part of a loyalty, rewards or promotional program.

(29) "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 2. (a) This act does not apply to:

(1) An operator of a payment system to the extent that such operator provides processing, clearing or settlement services between persons exempted under this subsection or licensees in connection with wire transfers, credit card transactions, debit card transactions, stored value transactions, automated clearing house transfers or similar funds transfers.

(2) A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services other than money transmission provided to the payor by the payee if:

(A) A written agreement exists between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(B) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(C) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee.

(3) A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender and the sender's designated recipient, if the entity:

(A) Is properly licensed or exempt from licensing requirements under this act;

(B) provides a receipt, electronic record or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(C) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the

sender whole in connection with any failure to transmit the funds to the sender's designated recipient.

(4) The United States government and any agency, bureau, department, office or instrumentality, corporate or otherwise, thereof, including any official, employee or agent of any such entity.

(5) Money transmission by the United States postal service or by an agent of the United States postal service.

(6) Any state office or officer, department, board, commission, bureau, division, authority, agency or institution of this state, including any political subdivision thereof, and any county, city or other municipality.

(7) A federally insured depository financial institution, bank holding company, office of an international banking corporation, foreign bank that establishes a federal branch pursuant to 12 U.S.C. § 3102, a corporation organized pursuant to 12 U.S.C. §§ 1861 through 1867 or a corporation organized under 12 U.S.C. §§ 611 through 633.

(8) Electronic funds transfer of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the United States or a department, agency or instrumentality thereof or on behalf of a state or governmental subdivision, agency or instrumentality thereof.

(9) A board of trade designated as a contract market under 7 U.S.C. §§ 1 through 25 or a person that in the ordinary course of business provides clearance and settlement services for a board of trade to the extent of the board of trade's operation as or for such a board.

(10) A futures commission merchant registered under federal commodities law to the extent of the registrant's operation as such a futures commission merchant.

(11) A person registered as a securities broker-dealer under federal or state securities law to the extent of such registrant's operation as such a securities broker-dealer.

(12) An individual employed by a licensee, authorized delegate or any person exempted from the licensing requirements of the act when acting within the scope of employment and under the supervision of the licensee, authorized delegate or exempted person as an employee and not as an independent contractor.

(13) A person expressly appointed as a third-party service provider to or agent of an entity exempt under paragraph (a)(6) solely to the extent that:

(A) Such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(B) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to

purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent.

(14) A person engaging in the practice of law, bookkeeping, accounting, real estate sales or brokerage.

(15) A person appointed as an agent of a payor for purposes of providing payroll processing services for which such agent would otherwise need to be licensed if:

(A) There is a written agreement between the payor and the agent that directs the agent to provide payroll processing services on the payor's behalf;

(B) the payor holds the agent out to employees and other payees as providing payroll processing services on the payor's behalf; and

(C) the payor's obligation to a payee, including an employee or any other party entitled to receive funds via the payroll processing services provided by the agent, is not extinguished if such agent fails to remit such funds to the payee.

(16) A person exempt by any rules or regulations adopted or by an order issued if the commissioner finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this act.

(b) The commissioner may require that any person claiming to be exempt from licensing pursuant to this section provide information and documentation to the commissioner demonstrating that such person qualifies for any claimed exemption.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 3. (a) To carry out the purposes of this act, the commissioner may:

(1) Enter into agreements or relationships with other government officials or federal and state regulatory agencies and regulatory associations to improve efficiencies and reduce regulatory burden by standardizing methods or procedures and sharing resources, records or related information obtained under this act;

(2) use, hire, contract or employ analytical systems, methods or software to examine or investigate any person subject to this act;

(3) accept from other state or federal government agencies or officials, licensing, examination or investigation reports made by such other state or federal government agencies or officials; and

(4) accept audit reports made by an independent certified public accountant or other qualified third-party auditor for an applicant or licensee and incorporate the audit report in any report of examination or investigation.

(b) The commissioner shall have the broad administrative authority to administer, interpret and enforce this act, promulgate rules and regula-

tions necessary to implement this act and set proportionate and equitable fees and costs associated with applications, examinations, investigations and other actions required to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year and to achieve the purposes of this act.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 4. (a) (1) Except as otherwise provided in subsection (b), all information or reports obtained by the commissioner from an applicant, licensee or authorized delegate and all information contained in or related to an examination, investigation, operating report or condition report prepared by, on behalf of or for the use of the commissioner or financial statements, balance sheets or authorized delegate information, are confidential and are not subject to disclosure under the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(2) The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2030, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

(b) The commissioner may disclose information not otherwise subject to disclosure under subsection (a) to representatives of state or federal agencies who promise in a record that such representatives will maintain the confidentiality of the information or where the commissioner finds that the release is reasonably necessary for the protection and interest of the public in accordance with the Kansas open records act.

(c) The following information contained in the records of the office of the state bank commissioner that is not confidential and may be made available to the public:

(1) The name, business address, telephone number and unique identifier of a licensee;

(2) the business address of a licensee's registered agent for service;

(3) the name, business address and telephone number of all authorized delegates;

(4) the terms of or a copy of any bond filed by a licensee, provided that confidential information, including, but not limited to, prices and fees for such bond is redacted; or

(5) copies of any orders of the office of the state bank commissioner relating to any violation of this act or regulations implementing this act.

(d) This section shall not be construed to prohibit the commissioner from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

(e) This section shall take effect on and after January 1, 2025.

New Sec. 5. (a) The commissioner may conduct an examination or investigation of a licensee or authorized delegate or otherwise take in-

dependent action authorized by this act or by any rules and regulations adopted or an order issued under this act as reasonably necessary or appropriate to administer and enforce this act, regulations implementing this act and other applicable federal law. The commissioner may:

(1) Conduct an examination on-site or off-site as the commissioner may reasonably require;

(2) conduct an examination in conjunction with an examination conducted by representatives of other state agencies, agencies of another state or the federal government;

(3) accept the examination report of another state agency or an agency of another state or the federal government or a report prepared by an independent accounting firm, which, on being accepted, is considered for all purposes as an official report of the commissioner; and

(4) summon and examine under oath or subpoena a key individual or employee of a licensee or authorized delegate and require such individual or employee to produce records regarding any matter related to the condition and business of the licensee or authorized delegate.

(b) A licensee or authorized delegate shall provide the commissioner with full and complete access to all records the commissioner may reasonably require to conduct a complete examination. The records shall be provided at the location and in the format specified by the commissioner. The commissioner may utilize multistate record production standards and examination procedures when such standards will reasonably achieve the requirements of this section.

(c) Unless otherwise directed by the commissioner, a licensee shall pay all costs reasonably incurred in connection with an examination of the licensee or the licensee's authorized delegates.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 6. (a) To administer and enforce the provisions of this act and minimize the regulatory burden, the commissioner is hereby authorized to participate in multistate supervisory processes established between states and coordinated through the conference of state bank supervisors, money transmitter regulators associations and affiliates and successors thereof for all licensees that hold licenses in Kansas or other states. As a participant in such established multistate supervisory processes, the commissioner may:

(1) Cooperate, coordinate and share information with other state and federal regulators in accordance with section 5, and amendments thereto;

(2) enter into written cooperation, coordination or information-sharing contracts or agreements with organizations, the membership of which is made up of state or federal governmental agencies; and

(3) cooperate, coordinate and share information with organizations, the membership of which is made up of state or federal governmental

agencies, if the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 4, and amendments thereto.

(b) The commissioner shall not waive, and nothing in this section shall constitute a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this act or rules and regulations adopted or an order issued under this act to enforce compliance with applicable state or federal law.

(c) A joint examination or investigation or acceptance of an examination or investigation report shall not be construed to waive an examination assessment provided for in this act.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 7. (a) If the jurisdiction of state money transmission is conditioned on federal law, any inconsistencies between a provision of this act and such federal law governing money transmission shall be governed by the applicable federal law to the extent of such inconsistency.

(b) If there are any inconsistencies between this act and any federal law that governs pursuant to subsection (a), the commissioner may provide interpretive guidance that identifies the:

(1) Inconsistency; and

(2) appropriate means of compliance with federal law.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 8. (a) A person may not engage in the business of money transmission or advertise, solicit or hold itself out as providing money transmission unless the person is licensed under this act.

(b) Subsection (a) shall not apply to a person that is:

(1) An authorized delegate of a person licensed under this act acting within the scope of authority conferred by a written contract with the licensee; or

(2) exempt pursuant to section 2, and amendments thereto, and does not engage in money transmission outside the scope of such exemption.

(c) A license issued pursuant to section 13, and amendments thereto, shall not be transferable or assignable.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 9. (a) To establish consistent licensing practices between Kansas and other states, the commissioner is hereby authorized to:

(1) Implement all licensing provisions of this act in a manner consistent with other states that have adopted this act or multistate licensing processes; and

(2) participate in nationwide protocols for licensing cooperation and coordination among state regulators, if such protocols are consistent with this act.

(b) The commissioner is authorized to establish relationships or contracts with the national multistate licensing system and registry or other entities designated by the national multistate licensing system and registry to:

(1) Collect and maintain records;

(2) coordinate multistate licensing processes and supervision processes;

(3) process fees; and

(4) facilitate communication between the commissioner and licensees or other persons subject to this act.

(c) The commissioner may utilize the nationwide multistate licensing system and registry for all aspects of licensing in accordance with this act, including, but not limited to, license applications, applications for acquisitions of control, surety bonds, reporting, criminal history background checks, credit checks, fee processing and examinations.

(d) The commissioner may utilize nationwide multistate licensing system and registry forms, processes and functionalities in accordance with this act. If the nationwide multistate licensing system and registry does not provide functionality, forms or processes for the provision of this act, the commissioner is authorized to implement the requirements in a manner that facilitates uniformity regarding the licensing, supervision, reporting and regulation of licensees that are licensed in multiple jurisdictions.

(e) The commissioner may establish new requirements or waive or modify, in whole or in part, any or all of the existing requirements as reasonably necessary to participate in the nationwide multistate licensing system and registry through the adoption of any rules and regulations adopted or an order issued or the issuance of an order.

(f) This section shall take effect on and after January 1, 2025.

New Sec. 10. (a) Applicants for a license shall submit a completed application in a form and manner as prescribed by the commissioner. Each such application shall contain content as set forth by rules and regulations, instruction or procedure of the commissioner and may be changed or updated by the commissioner in accordance with applicable law to carry out the purposes of this act and maintain consistency with nationwide multistate licensing system and registry licensing standards and practices. The application shall state or contain, as applicable:

(1) The legal name and any fictitious or trade name used by the applicant in conducting business and the residential and business addresses of the applicant;

(2) a list of any criminal convictions of the applicant and any material litigation in which the applicant was involved in the 10-year period immediately preceding the submission of the application;

(3) a description of any money transmission services previously provided by the applicant and the money transmission services the applicant seeks to provide in Kansas;

(4) a list of the applicant's proposed authorized delegates and the locations in Kansas where the applicant and the applicant's authorized delegates propose to engage in money transmission;

(5) a list of all other states where the applicant is licensed to engage in money transmission and any license revocations, suspensions or other disciplinary action taken against the applicant in other states;

(6) information concerning any bankruptcy or receivership proceedings affecting the licensee or a person in control of a licensee;

(7) a sample form of the contract for authorized delegates, if applicable;

(8) a sample form of the payment instrument or stored value, as applicable;

(9) the name and address of any federally insured depository financial institution through which the applicant plans to conduct money transmission; and

(10) any other information the commissioner or the nationwide multistate licensing system and registry reasonably requires regarding the applicant.

(b) If an applicant is a corporation, limited liability company, partnership or other legal entity, the applicant shall also provide:

(1) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(2) a certificate of good standing from the state or country where the applicant is incorporated or formed, if applicable;

(3) a brief description of the business structure or organization of the applicant, including any parents or subsidiaries of the applicant and whether any such parents or subsidiaries are publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses and the employment, as applicable, for the 10-year period immediately preceding the submission of the application for each key individual and person in control of the applicant;

(5) for any person in control of the applicant, a list of any felony convictions and for the 10-year period immediately preceding the submission of the application, a list of any criminal misdemeanor convictions of a crime of dishonesty, fraud or deceit and any material litigation in which the person involved is in control of an applicant that is not an individual;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and for the two-year period immediately preceding the most recent fiscal year or, if acceptable to the commissioner, certified unaudited financial statements for the most recent fiscal year or other period acceptable to the commissioner;

(7) a certified copy of the applicant's unaudited financial statements for the most recent fiscal quarter;

(8) if the applicant is a publicly traded corporation, a copy of the most recent report filed with the securities and exchange commission pursuant to 15 U.S.C. § 78m;

(9) if the applicant is a wholly owned subsidiary of:

(A) A corporation publicly traded in the United States, a copy of the parent corporation's audited financial statements for the most recent fiscal year or a copy of the parent corporation's most recent financial report filed with the securities and exchange commission pursuant to 15 U.S.C. § 78m; or

(B) a corporation publicly traded outside the United States, a copy of documentation similar to the requirements of paragraph (A) filed with the regulator of the parent corporation's domicile outside the United States;

(10) the name and address of the applicant's registered agent in Kansas; and

(11) any other information that the commissioner reasonably requires regarding the applicant.

(c) The commissioner shall set a nonrefundable new application fee each year pursuant to section 3(b), and amendments thereto.

(d) The commissioner may waive one or more requirements of subsections (a) or (b) or permit an applicant to submit other information in lieu of the required information.

(e) This section shall take effect on and after January 1, 2025.

New Sec. 11. (a) As a part of any original application, any individual in control of a licensee, any applicant in control of a licensee and each key individual shall provide the commissioner with the following items through the nationwide multistate licensing system and registry:

(1) (A) The office of the state bank commissioner may require an individual 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 such individual has a record of criminal history in this state or other jurisdictions. The office of the state bank 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. The office of the state bank commissioner may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the individual and in the official determination of the qualifications and fitness of the individual to be issued or to maintain a license;

(B) Local and state law enforcement officers and agencies shall assist the office of the state bank commissioner in taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate;

(C) The Kansas bureau of investigation shall release all records of adult convictions and nonconvictions in Kansas and adult convictions, adjudications and nonconvictions of another state or country to the office of the state bank commissioner. Disclosure or use of any information received for any purpose other than provided in this section shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment; and

(D) Any individual that currently resides and has continuously resided outside of the United States for the past 10 years shall not be required to comply with this subsection; and

(2) a description of the individual's personal history and experience provided in a form and manner prescribed by the commissioner to obtain the following:

(A) An independent credit report from a consumer reporting agency. This requirement shall be waived if the individual does not have a social security number;

(B) information related to any criminal convictions or pending charges; and

(C) information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty or breach of contract.

(b) (1) If the individual has resided outside of the United States at any time during the 10-year period immediately preceding the individual's application, the individual shall also provide an investigative background report prepared by an independent search firm.

(2) At a minimum, the search firm shall:

(A) Demonstrate that it has sufficient knowledge and resources and that such firm employs accepted and reasonable methodologies to conduct the research of the background report; and

(B) not be affiliated with or have an interest with the individual it is researching.

(3) The investigative background report shall be provided in English and, at a minimum, shall contain the following:

(A) A comprehensive credit report or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns and contiguous areas where the individual resided and worked if such report is available in the individual's current jurisdiction of residency;

(B) criminal records information for the 10-year period immediately preceding the individual's application, including, but not limited to, felonies, misdemeanors or similar convictions for violations of law in the

countries, provinces, states, cities, towns and contiguous areas where the individual resided and worked;

(C) employment history;

(D) media history including an electronic search of national and local publications, wire services and business applications; and

(E) financial services-related regulatory history, including, but not limited to, money transmission, securities, banking, insurance and mortgage-related industries.

(c) Any information required by this section may be used by the commissioner in making an official determination of the qualifications and fitness of the person in control or who seeks to gain control of the licensee.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 12. (a) A person is presumed to exercise a controlling influence when such person holds the power to vote, directly or indirectly, at least 10% of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(b) A person presumed to exercise a controlling influence pursuant to this section may rebut the presumption of control if the person is a passive investor.

(c) For purposes of determining the percentage of a person controlled by any individual, the individual's interest shall be aggregated with the interest of any other immediate family member, including the individual's spouse, parents, children, siblings, mothers-in-law and fathers-in-law, sons-in-law and daughters-in-law, brothers-in-law and sisters-in-law and any other person who shares such individual's home.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 13. (a) (1) When an application for an original license under this act appears to include all the items and addresses all of the matters that are required, the application shall be deemed complete, and the commissioner shall promptly notify the applicant of the date the application is deemed complete. The commissioner shall approve or deny the application within 120 days after the completion date.

(2) If the application has not been approved or denied within 120 days after the completion date:

(A) The application shall be considered approved; and

(B) the license shall take effect as of the first business day after expiration of the 120-day period.

(3) The commissioner may extend the application period for good cause.

(b) A determination by the commissioner that an application is complete and accepted for processing means that the application, on its face, appears to include all of the items, including the criminal history background check response from the Kansas bureau of investigation and that

such application addresses all of the matters that are required. A determination of completion by the commissioner shall not be deemed to be an assessment of the substance of the application or of the sufficiency of the information provided.

(c) When an application is filed and considered complete under this section, the commissioner shall investigate the applicant's financial condition and responsibility, financial and business experience, character and general fitness. The commissioner may conduct an on-site investigation of the applicant at the applicant's expense. The commissioner shall issue a license to an applicant under this section if the commissioner finds that the following conditions have been fulfilled:

(1) The applicant has complied with sections 10 and 11, and amendments thereto; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the applicant and key individuals and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

(d) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) The commissioner is hereby authorized to accept the investigation results of a lead investigative state to satisfy the requirements of subsection (c) if such lead investigative state has sufficient staffing, expertise and minimum standards; or

(2) if Kansas is the lead investigative state, the commissioner is hereby authorized to investigate the applicant pursuant to subsection (c) utilizing the timeframes established by agreement through the multistate licensing process. No such timeframes shall be considered noncompliant with the application period in subsection (a)(1).

(e) The commissioner shall issue a formal written notice of the denial of a license application within 14 days of the decision to deny the application. The commissioner shall state in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the commissioner under this subsection may appeal within 14 days of receiving the notice and request a hearing in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(f) The initial license term shall begin on the day the application is approved. The license shall expire on December 31 of the year in which the license term began, unless the initial license date is between November 1 and December 31, in which case the initial license term shall run through December 31 of the following year.

(g) This section shall take effect on and after January 1, 2025.

New Sec. 14. (a) (1) A license issued under this act shall be renewed annually.

(2) An annual renewal fee set by the commissioner shall be paid not more than 60 days before the license expiration.

(3) The renewal term shall be for a period of one year and shall begin on January 1 of each year after the initial license term and shall expire on December 31 of the year the renewal term begins.

(b) A licensee shall submit a complete renewal report with the renewal fee, in a form and manner determined by the commissioner. The renewal report shall contain a description of each material change in information submitted by the licensee in the licensee's original license application that has not been reported to the commissioner.

(c) Renewal applications received within 30 days of the expiration of the license and incomplete applications as of 30 days prior to the expiration of the license shall be subject to a late fee set by the commissioner.

(d) The commissioner may grant an extension of the renewal date for good cause.

(e) The commissioner is hereby authorized to utilize the nationwide multistate licensing system and registry to process license renewals, if such utilization satisfies the requirements of this section.

(f) Renewal applications submitted between November 1, 2024 and December 31, 2024, considered complete pursuant to K.S.A. 9-509, and amendments thereto, shall be considered complete under this section.

(g) This section shall take effect on and after January 1, 2025.

New Sec. 15. (a) If a licensee does not continue to meet the qualifications or satisfy the requirements of an applicant for a new money transmission license, the commissioner may suspend or revoke the licensee's license in accordance with the procedures established by this act or other applicable state law for such suspension or revocation.

(b) An applicant for a money transmission license shall demonstrate that such applicant meets or will meet and a money transmission licensee shall at all times meet, the requirements of sections 32, 33 and 34, and amendments thereto.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 16. (a) The commissioner shall have the discretion to determine the completeness of any application submitted pursuant to this act. In making such a determination, the commissioner shall consider the applicant's compliance with the requirements of the act and any other facts and circumstances that the commissioner deems appropriate.

(b) If an applicant fails to complete the application for a new license or for a change of control of a license within 60 days after the commissioner provides written notice of the incomplete application, the application will be deemed abandoned and the application fee shall be nonrefund-

able. An applicant whose application is abandoned under this section may reapply to obtain a new license.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 17. (a) When any person or group of persons acting in concert are seeking to acquire control of a licensee, the licensee shall obtain the written approval of the commissioner prior to the change of control. An individual is not deemed to acquire control of a licensee and is not subject to this section when that individual becomes a key individual in the ordinary course of business.

(b) A person or group of persons acting in concert that seeks to acquire control of a licensee in cooperation with such licensee shall submit an application in the form and manner prescribed by the commissioner. Such application shall be accompanied by a nonrefundable fee set by the commissioner.

(c) Upon request, the commissioner may permit a licensee, the person or group of persons acting in concert to submit some or all information required by the commissioner pursuant to subsection (b) without using the nationwide multistate licensing system and registry.

(d) The application required by subsection (b) shall include all information required by section 11, and amendments thereto, for any new key individuals who have not previously completed the requirements of section 11, and amendments thereto, for a licensee.

(e) (1) When an application for acquisition of control under this section appears to include all the items and addresses all of the matters that are required, the application shall be deemed complete and the commissioner shall promptly notify the applicant of the date on which the application was so deemed, and the commissioner shall approve or deny the application within 60 days after the completion date.

(2) If the application is not approved or denied within 60 days after the completion date:

(A) The application shall be deemed approved; and

(B) the person or group of persons acting in concert shall not be prohibited from acquiring control.

(3) The commissioner may extend the application period for good cause.

(f) A determination by the commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and addresses all of the matters that are required. A determination of completion by the commissioner shall not be deemed to be an assessment of the substance of the application or of the sufficiency of the information provided.

(g) When an application is filed and considered complete under subsection (e), the commissioner shall investigate the financial condition and

responsibility, financial and business experience, character and general fitness of the person or group of persons acting in concert who seek to acquire control. The commissioner shall approve an acquisition of control pursuant to this section if the commissioner finds that all of the following conditions have been fulfilled:

(1) The requirements of subsections (b) and (d) have been met, as applicable; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the person or group of persons acting in concert seeking to acquire control and the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person or group of persons acting in concert to control the licensee.

(h) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) The commissioner shall be authorized to accept the investigation results of a lead investigative state for the purposes of subsection (g) if the lead investigative state has sufficient staffing, expertise and minimum standards; or

(2) if Kansas is a lead investigative state, the commissioner shall be authorized to investigate the applicant pursuant to subsection (g) and the timeframes established by agreement through the multistate licensing process.

(i) The commissioner shall issue a formal written notice of the denial of an application to acquire control within 30 days of the decision to deny the application. The commissioner shall state in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied by the commissioner under this subsection may appeal within 14 days and request a hearing in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(j) The requirements of subsections (a) and (b) shall not apply to any of the following:

(1) A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

(2) a person that acquires control of a licensee by devise or descent;

(3) a person that acquires control of a licensee as a personal representative, custodian, guardian, conservator or trustee or as an officer appointed by a court of competent jurisdiction or by operation of law;

(4) a person that is exempt under subsection (l);

(5) a person that the commissioner determines is not subject to subsection (a) based on the public interest;

(6) a public offering of securities of a licensee or a person in control of a licensee; or

(7) an internal reorganization of a person in control of the licensee if the ultimate person in control of the licensee remains the same.

(k) Persons meeting the requirements of subsections (j)(2), (j)(3), (j)(4), (j)(6) or (j)(7) in cooperation with the licensee shall notify the commissioner within 15 days after the acquisition of control.

(l) (1) The requirements of subsections (a) and (b) shall not apply to a person that has complied with and received approval to engage in money transmission under this act or was identified as a person in control in a prior application filed with and approved by the commissioner or by a money service business-accredited state pursuant to a multistate licensing process, if:

(A) The person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous five years;

(B) the person is a licensee, such person is well managed and has received at least a satisfactory rating for compliance at such person's most recent examination by an money service business accredited state if such rating was given;

(C) the licensee to be acquired is expected to meet the requirements of sections 32, 33 and 34, and amendments thereto, after the acquisition of control is completed. If the person acquiring control is a licensee, such licensee shall also be expected to meet the requirements of sections 32, 33 and 34, and amendments thereto, after the acquisition of control is completed;

(D) the licensee to be acquired shall not implement any material changes to such licensee's business plan as a result of the acquisition of control. If the person acquiring control is a licensee, such licensee shall not implement any material changes to such licensee's business plan as a result of the acquisition of control; and

(E) the person provides notice of the acquisition in cooperation with the licensee and attests to the provisions of this subsection in a form and manner prescribed by the commissioner.

(2) If the notice is not disapproved within 30 days after the date on which the notice was determined to be complete, the notice shall be deemed approved.

(m) Before filing an application for approval to acquire control of a licensee, a person may request in writing a determination from the commissioner as to whether such person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the person and the proposed transaction shall not be subject to the requirements of subsections (a) and (b).

(n) If a multistate licensing process includes a determination pursuant to subsection (m) and an applicant avails itself or is otherwise subject to the multistate licensing process:

(1) The commissioner is hereby authorized to accept the control determination of a lead investigative state with sufficient staffing, expertise and minimum standards for the purpose of subsection (m); or

(2) if Kansas is a lead investigative state, the commissioner is hereby authorized to investigate the applicant pursuant to subsection (m) and the timeframes established by agreement through the multistate licensing process.

(o) This section shall take effect on and after January 1, 2025.

New Sec. 18. (a) A licensee adding or replacing a key individual shall provide:

(1) Notice in the manner prescribed by the commissioner within 15 days after the effective date of the appointment of the new key individual; and

(2) information as required by section 10, and amendments thereto, within 45 days of the effective date of the appointment of the new key individual.

(b) Within 90 days of the date on which the notice provided pursuant to subsection (a) was determined to be complete, the commissioner may issue a notice of disapproval of a key individual if the competence, experience, character or integrity of the individual would not be in the best interests of the public or the customers of the licensee to permit the individual to be a key individual of such licensee.

(c) A notice of disapproval shall state the basis for disapproval and shall be sent to the licensee and the disapproved individual. A licensee may appeal a notice of disapproval pursuant to the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, within 14 days.

(d) If the notice provided pursuant to subsection (a) is not disapproved within 90 days after the date when the notice was determined to be complete, the key individual shall be deemed approved.

(e) If a multistate licensing process includes a key individual notice review and disapproval process pursuant to this section and the licensee avails itself or is otherwise subject to the multistate licensing process:

(1) The commissioner is hereby authorized to accept the determination of another state if the investigating state has sufficient staffing, expertise and minimum standards for the purpose of this section; or

(2) if Kansas is a lead investigative state, the commissioner is authorized to investigate the applicant pursuant to subsection (b) and the timeframes established by agreement through the multistate licensing process.

(f) This section shall take effect on and after January 1, 2025.

New Sec. 19. (a) Every licensee shall submit a report of condition within 45 days of the end of the calendar quarter or within any extended time as the commissioner may prescribe.

(b) The report of condition shall include:

(1) Financial information at the licensee level;

(2) nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission;

(3) the permissible investments report;

(4) transaction destination country reporting for money received for transmission, if applicable; and

(5) any other information the commissioner reasonably requires regarding the licensee.

(c) The commissioner may utilize the nationwide multistate licensing system and registry for the submission of the report required by subsection (a) and is authorized to change or update as necessary the requirements of this section to carry out the purposes of this act and maintain consistency with nationwide multistate licensing system and registry reporting.

(d) The information required by subsection (b)(4) shall only be included in a report of condition submitted within 45 days of the end of the fourth calendar quarter.

(e) This section shall take effect on and after January 1, 2025.

New Sec. 20. (a) Within 90 days after the end of each fiscal year or within any extended time as the commissioner may prescribe through rules and regulations, every licensee shall file with the commissioner:

(1) An audited financial statement of the licensee for the fiscal year prepared in accordance with United States generally accepted accounting principles; and

(2) any other information as the commissioner may reasonably require.

(b) The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who has been deemed satisfactory by the commissioner.

(c) The audited financial statements shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant in a form and manner determined by the commissioner. If the certificate or opinion is qualified, the commissioner may order the licensee to take any action as the commissioner may find necessary to enable the independent certified public accountant or independent public accountant to remove the qualification.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 21. (a) Each licensee shall submit a report of authorized delegates within 45 days of the end of each calendar quarter. The commis-

sioner is authorized to utilize the nationwide multistate licensing system and registry for the submission of the report required by this subsection if such utilization is consistent with the requirements of this section.

(b) The authorized delegate report shall include, at a minimum, each authorized delegate's:

(1) Company legal name;

(2) taxpayer employer identification number;

(3) principal provider identifier;

(4) physical address;

(5) mailing address;

(6) any business conducted in other states;

(7) any fictitious or trade name;

(8) contact person's name, phone number and email;

(9) start date as the licensee's authorized delegate;

(10) end date acting as the licensee's authorized delegate, if applicable; and

(11) any other information the commissioner reasonably requires regarding the authorized delegate.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 22. (a) A licensee shall file a report with the commissioner within one business day after the licensee has reason to know of the:

(1) Filing of a bankruptcy or reorganization petition by or against the licensee;

(2) filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for the licensee's dissolution or reorganization or the making of a general assignment for the benefit of the licensee's creditors; or

(3) commencement of a proceeding to revoke or suspend the licensee's license in a state or country where the licensee engages in business or is licensed.

(b) A licensee shall file a report with the commissioner within three business days after the licensee has reason to know of a felony conviction of:

(1) The licensee or a key individual or person in control of the licensee; or

(2) an authorized delegate.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 23. (a) A licensee and an authorized delegate shall file all reports required by federal currency reporting, recordkeeping and suspicious activity reporting requirements as set forth in federal and state laws pertaining to money laundering. The timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed compliant with the requirements of this section.

(b) This section shall take effect on and after January 1, 2025.

New Sec. 24. (a) Every licensee shall maintain the following records for at least three years:

(1) A record of each outstanding money transmission obligation sold;

(2) a general ledger posted at least monthly containing all assets, liability, capital, income and expense accounts;

(3) bank statements and bank reconciliation records;

(4) records of all outstanding money transmission obligations;

(5) records of each outstanding money transmission obligation paid within the three-year period the records are maintained;

(6) a list of the last known names and addresses of all the licensee's authorized delegates; and

(7) any other records the commissioner reasonably requires in rules and regulations.

(b) Records specified in subsection (a) may be maintained:

(1) In any form of record; and

(2) outside this state, if such records are made accessible to the commissioner on seven business days' notice.

(c) All records maintained by the licensee as required in this section are open to inspection by the commissioner pursuant to section 5(a), and amendments thereto.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 25. (a) As used in this section, "remit" means to make direct payments of money to a licensee or the licensee's representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

(b) Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

(1) Adopt and update as necessary all written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

(2) enter into a written contract that complies with subsection (d); and

(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine if the authorized delegate has complied and will likely comply with applicable state and federal law.

(c) An authorized delegate shall comply with this act.

(d) The written contract required by subsection (b) shall be signed by the licensee and the authorized delegate and, at a minimum, shall:

(1) Appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

(2) set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of each party;

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws and rules and regulations pertaining to money transmission;

(4) require the authorized delegate to remit and handle money and any monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;

(5) impose a trust on money and any monetary value net of fees received for money transmission for the benefit of the licensee;

(6) require the authorized delegate to prepare and maintain records as required by this act or rules and regulations adopted pursuant to this act or as reasonably required by the commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the commissioner;

(8) state that the licensee is subject to regulation by the commissioner and, as part of such regulation, the commissioner may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under subsection (b).

(e) Within five business days after the suspension, revocation, surrender or expiration of a licensee's license, the licensee shall provide documentation to the commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the commissioner of the suspension, revocation, surrender or expiration of a license. Upon suspension, revocation, surrender or expiration of a license, all applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.

(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If an authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.

(g) No authorized delegate shall use a subdelegate to conduct money transmission on behalf of a licensee.

(h) This section shall take effect on and after January 1, 2025.

New Sec. 26. (a) No person shall engage in the business of money transmission on behalf of a person who is not licensed or exempt from licensing under this act. If a person engages in such activity, such person

shall be deemed to have provided money transmission to the same extent that such person were a licensee and shall be jointly and severally liable with the unlicensed or nonexempt person.

(b) This section shall take effect on and after January 1, 2025.

New Sec. 27. (a) Every licensee shall forward all moneys received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee reasonably believes or has a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law or any rules and regulations has occurred, is occurring or may occur.

(b) If a licensee fails to forward money received for transmission in accordance with this section, the licensee shall respond to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law or rules and regulations.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 28. (a) This section does not apply to moneys received for transmission:

(1) Subject to 12 C.F.R. §§ 1005.30 through 1005.36; or

(2) pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

(b) Within 10 days of receipt of the sender's written request for a refund of all money received for transmission, the licensee shall refund such money to the sender, unless:

(1) The money has been forwarded within 10 days of the date when the money was received for transmission;

(2) instructions have been given committing an equivalent amount of money to the person designated by the sender within 10 days of the date when the money was received for transmission;

(3) the agreement between the licensee and the sender instructs the licensee to forward the money after 10 days of the date when the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with this section; or

(4) the refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rules and regulations has occurred, is occurring or may occur.

(c) The refund request shall not be construed to enable the licensee to identify the:

(1) Sender's name and address or telephone number; or

(2) particular transaction to be refunded if the sender has multiple outstanding transactions.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 29. (a) This section shall not apply to:

(1) Money received for transmission subject to 12 C.F.R. §§ 1005.30 through 1005.36;

(2) money received for transmission that is not primarily for personal, family or household purposes;

(3) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

(b) As used in this section, "receipt" means a paper or electronic receipt.

(c) (1) For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt.

(2) For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(d) (1) Every licensee or the licensee's authorized delegate shall provide the sender a receipt for money received for transmission.

(2) The receipt shall contain the:

(A) Name of the sender;

(B) name of the designated recipient;

(C) date of the transaction;

(D) unique transaction or identification number;

(E) name of the licensee, the licensee's nationwide multistate licensing system and registry unique identification number, the licensee's business address and the licensee's customer service telephone number;

(F) amount of the transaction in United States dollars;

(G) fee charged, if any, by the licensee to the sender for the transaction; and

(H) taxes collected, if any, by the licensee from the sender for the transaction.

(3) The receipt required by this section shall be written in English and in the language principally used by the licensee or authorized delegate to advertise, solicit or negotiate, either orally or in writing, for a transaction conducted in person, electronically or by phone, if other than English.

(e) This section shall take effect on and after January 1, 2025.

New Sec. 30. (a) Every licensee or authorized delegate shall include on a receipt or disclose on the licensee's website or mobile application the name of the office of the state bank commissioner and a statement that the licensee's Kansas customers can contact the office of the state bank commissioner with questions or complaints about the licensee's money transmission services.

(b) This section shall take effect on and after January 1, 2025.

New Sec. 31. (a) A licensee that provides payroll processing services shall:

(1) Issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker paystubs or an equivalent statement to workers.

(b) This section shall not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 32. (a) Every licensee shall maintain at all times a tangible net worth of:

(1) The greater of $100,000 or 3% of such licensee's total assets up to $100,000,000;

(2) 2% of such licensee's additional assets of $100,000,000 to $1,000,000,000; and

(3) 0.5% of such licensee's additional assets of over $1,000,000,000.

(b) The licensee's tangible net worth shall be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to section 10, and amendments thereto.

(c) Notwithstanding the provisions of this section, the commissioner shall have the authority to exempt any applicant or licensee, in part or in whole, from the requirements of this section.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 33. (a) An applicant for a money transmission license shall provide and a licensee at all times shall maintain security consisting of a surety bond in a form satisfactory to the commissioner or, with the commissioner's approval, a deposit instead of a bond in accordance with this section.

(b) The amount of the required security shall be:

(1) The greater of $200,000 or an amount equal to 100% of the licensee's average daily money transmission liability in Kansas calculated for the most recently completed three-month period, up to a maximum of $1,000,000; or

(2) $200,000, if the licensee's tangible net worth exceeds 10% of total assets.

(c) A licensee that maintains a bond in the maximum amount provided for in subsection (b) shall not be required to calculate its average daily money transmission liability in Kansas for purposes of this section.

(d) A licensee may exceed the maximum required bond amount pursuant to section 35, and amendments thereto.

(e) This section shall take effect on and after January 1, 2025.

New Sec. 34. (a) A licensee shall maintain permissible investments that have a market value computed in accordance with United States generally accepted accounting principles of not less than the aggregate amount of the total of the licensee's outstanding money transmission obligations.

(b) Except for the permissible investments described in section 35, and amendments thereto, the commissioner may by rules and regulations or order limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers not reflected in the market value of investments.

(c) Permissible investments, even if commingled with other assets of the licensee, shall be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations in the event of insolvency, the filing of a petition by or against the licensee under 11 U.S.C. §§ 101 through 110 for bankruptcy or reorganization, the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for such licensee's dissolution or reorganization or in the event of an action by a creditor against the licensee who is not a beneficiary of this statutory trust. No permissible investments impressed with a trust pursuant to this subsection shall be subject to attachment, levy of execution or sequestration by order of any court, except for a beneficiary of this statutory trust.

(d) Upon the establishment of a statutory trust in accordance with subsection (c) or when any funds are drawn on a letter of credit pursuant to section 35, and amendments thereto, the commissioner shall notify the applicable regulator of each state where the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed pursuant to a multistate agreement or through the nationwide multistate licensing system and registry. Funds drawn on a letter of credit and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations shall be deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in Kansas and other states, as applicable. Any statutory trust established under this section shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(e) The commissioner by rules and regulations or by order may allow other types of investments that the commissioner determines are of sufficient liquidity and quality to be a permissible investment. The com-

missioner is hereby authorized to participate in efforts with other state regulators to determine which other types of investments are of sufficient liquidity and quality to be a permissible investment.

(f) This section shall take effect on and after January 1, 2025.

New Sec. 35. (a) The following investments are permissible under this section:

(1) Cash, including demand deposits, savings deposits and funds in accounts held for the benefit of the licensee's customers in a federally insured depository financial institution and cash equivalents including automated clearing house items in transit to the licensee and automated clearing house items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank or money market mutual funds rated AAA by Standard & Poor or the equivalent from any eligible rating service;

(2) certificates of deposit or senior debt obligations of a federally insured depository institution;

(3) an obligation of the United States or a commission, agency or instrumentality thereof, an obligation that is guaranteed fully as to principal and interest by the United States or an obligation of a state or a governmental subdivision, agency or instrumentality thereof;

(4) (A) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subparagraph (D);

(B) the letter of credit shall:

(i) Be issued by a federally insured depository financial institution, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states or a foreign bank that is authorized under state law to maintain a branch in a state that:

(a) Bears an eligible rating or whose parent company bears an eligible rating; and

(b) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks, credit unions and trust companies;

(ii) be irrevocable, unconditional and indicate that such letter of credit is not subject to any condition or qualifications outside of such letter of credit;

(iii) contain no references to any other agreements, documents or entities or otherwise provide for a security interest in the licensee; and

(iv) contain an issue date and expiration date and expressly provide for automatic extension, without a written amendment, for an additional

period of one year from the present or each future expiration date unless the issuer of the letter of credit notifies the commissioner in writing by certified or registered mail or courier mail or other receipted means at least 60 days prior to any expiration date, that the irrevocable letter of credit will not be extended;

(C) if any notice of expiration or non-extension of a letter of credit is issued under clause (a)(4)(B)(iv), the licensee shall be required to demonstrate to the satisfaction of the commissioner, 15 days prior to expiration, that the licensee maintains and shall maintain permissible investments in accordance with section 36(a), and amendments thereto, upon the expiration of the letter of credit. If the licensee is not able to do so, the commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with section 34(a), and amendments thereto. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the commissioner or the commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations;

(D) the letter of credit shall provide that the issuer of such letter of credit shall honor, at sight, a presentation made of the following documents by the beneficiary to the issuer on or prior to the expiration date of the letter of credit:

(i) The original letter of credit, including any amendments; and

(ii) a written statement from the beneficiary stating that any of the following events have occurred:

(a) The filing of a bankruptcy or reorganization petition by or against the licensee;

(b) the filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for such licensee's dissolution or reorganization;

(c) the seizure of assets of a licensee by a commissioner pursuant to an emergency order issued in accordance with applicable law, on the basis of an action, violation or condition that has caused or is likely to cause the insolvency of the licensee; or

(d) the beneficiary has received notice of expiration or non-extension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with section 36(a), and amendments thereto, upon the expiration or non-extension of the letter of credit;

(E) the commissioner may designate an agent to serve on the commissioner's behalf as beneficiary to a letter of credit if the agent and letter of credit meet requirements established by the commissioner.

The commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of subsection (a)(4) are assigned to the commissioner; and

(F) the commissioner is hereby authorized to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including, but not limited to, services provided by the nationwide multistate licensing system and registry and state regulatory registry, LLC; and

(5) 100% of the surety bond provided for under section 33, and amendments thereto, that exceeds the average daily money transmission liability in Kansas.

(b) (1) Unless permitted by the commissioner by rules and regulations adopted or by order issued to exceed the limit as set forth herein, the following investments are permissible under section 35, and amendments thereto, to the extent specified:

(A) Receivables payable to a licensee from the licensee's authorized delegates in the ordinary course of business that are less than seven days old up to 50% of the aggregate value of the licensee's total permissible investments; and

(B) of the receivables permissible under subparagraph (A), receivables payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10% of the aggregate value of the licensee's total permissible investments.

(2) The following investments are permissible up to 20% per category and up to 50% combined of the aggregate value of the licensee's total permissible investments:

(A) A short-term investment of up to six months, bearing an eligible rating;

(B) commercial paper bearing an eligible rating;

(C) a bill, note, bond or debenture bearing an eligible rating;

(D) United States tri-party repurchase agreements collateralized at 100% or more with United States government or agency securities, municipal bonds or other securities bearing an eligible rating;

(E) money market mutual funds rated less than AAA and equal to or higher than A- by Standard & Poor or the equivalent from any other eligible rating service; and

(F) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subsection (a)(1) through (3).

(3) Cash, including demand deposits, savings deposits and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to 10% of the aggregate value

of the licensee's total permissible investments if the licensee has received a satisfactory rating in the licensee's most recent examination and the foreign depository institution:

(A) Has an eligible rating;

(B) is registered under the foreign account tax compliance act;

(C) is not located in any country subject to sanctions from the office of foreign asset control; and

(D) is not located in a high-risk or non-cooperative jurisdiction as designated by the financial action task force.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 36. (a) The commissioner may, after notice and an opportunity for a hearing conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, suspend or revoke a license or order a licensee to revoke the designation of an authorized delegate if:

(1) The licensee violates this act or any rules and regulations adopted or an order issued under this act;

(2) the licensee does not cooperate with an examination or investigation by the commissioner;

(3) the licensee engages in fraud, intentional misrepresentation or gross negligence;

(4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute or violates any rules or regulations adopted or an order issued under this act, as a result of the licensee's willful misconduct or willful blindness;

(5) the competence, experience, character or general fitness of the licensee, authorized delegate, person in control of a licensee, key individual or responsible person of the authorized delegate indicates that it is not in the public interest to permit the person to provide money transmission;

(6) the licensee engages in an unsafe or unsound practice as determined by the commissioner pursuant to subsection (b);

(7) the licensee is insolvent, suspends payment of the licensee's obligations or makes a general assignment for the benefit of the licensee's creditors;

(8) the licensee does not remove an authorized delegate after the commissioner issues and serves upon the licensee a final order that includes a finding that the authorized delegate has violated this act;

(9) a fact or condition exists that, if it had existed when the licensee applied for a license, would have been grounds for denying the application;

(10) the licensee's net worth becomes inadequate and the licensee, after 10 days, fails to take steps to remedy the deficiency;

(11) the licensee demonstrated a pattern of failing to promptly pay obligations;

(12) the licensee applied for adjudication, reorganization or other relief under bankruptcy; or

(13) the licensee lied or made false or misleading statements to any material fact or omitted any material fact.

(b) In determining whether a licensee is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of this act and the previous conduct of the person involved.

(c) This section shall take effect on and after January 1, 2025.

New Sec. 37. (a) The commissioner may issue an order suspending or revoking the designation of an authorized delegate, if the commissioner finds that the:

(1) Authorized delegate violated this act or any rules and regulations adopted or an order issued under this act;

(2) authorized delegate did not cooperate with an examination or investigation by the commissioner;

(3) authorized delegate engaged in fraud, intentional misrepresentation or gross negligence;

(4) authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;

(5) the competence, experience, character or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money transmission; or

(6) the authorized delegate is engaging in an unsafe or unsound practice as determined by the commissioner pursuant to subsection (b).

(b) In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the commissioner may consider the size and condition of the authorized delegate's provision of money transmission, the magnitude of the loss, the gravity of the violation of this act or any rules and regulations adopted or an order issued under this act and the previous conduct of the authorized delegate.

(c) An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the commissioner in rules and regulations.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 38. (a) If the commissioner determines that a violation of this act or of any rules and regulations adopted or an order issued under this act by a licensee, a person required to be licensed or authorized delegate is likely to cause immediate and irreparable harm to the licensee, the licensee's customers or the public as a result of the violation or cause insolvency or significant dissipation of assets of the licensee, the commissioner may issue an order requiring the licensee or authorized delegate

to cease and desist from the violation. The order shall become effective upon service of the order on the licensee or authorized delegate.

(b) The commissioner may issue an order against a licensee to cease and desist from providing money transmission through an authorized delegate that is the subject of a separate order by the commissioner.

(c) An order to cease and desist shall remain effective and enforceable pending the completion of an administrative proceeding pursuant to the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(d) An order to cease and desist shall be considered a final order unless the licensee or authorized delegate requests a hearing within 14 days after the cease and desist order is issued.

(e) This section shall take effect on and after January 1, 2025.

New Sec. 39. (a) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act or any rules and regulations adopted or order issued under this act. A consent order shall be signed by the person to whom such consent order is issued or by the person's authorized representative and shall indicate agreement with the terms contained in the order. A consent order may provide that such consent order does not constitute an admission by a person that this act or rules and regulations adopted or an order issued under this act has been violated.

(b) This section shall take effect on and after January 1, 2025.

New Sec. 40. (a) Any person that intentionally makes a false statement, misrepresentation or false certification in a record filed or required to be maintained under this act or that intentionally makes a false entry or omits a material entry in such a record is guilty of a severity level 9, nonperson felony.

(b) Any person that knowingly engages in an activity for which a license is required under this act without being licensed under this act and who receives more than $500 in compensation within a 30-day period from this activity is guilty of a severity level 9, nonperson felony.

(c) Any person that knowingly engages in an activity for which a license is required under this act without being licensed under this act and who receives not more than $500 in compensation within a 30-day period from this activity is guilty of a class A nonperson misdemeanor.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 41. (a) As part of any summary order or consent order, the commissioner may:

(1) Assess a fine against any person who violates this act or any rules and regulations adopted hereunder in an amount not to exceed $5,000 per violation. The commissioner may designate any fine collected pursuant to this section be used for consumer education;

(2) assess the agency's operating costs and expenses for investigating and enforcing this act;

(3) require the person to pay restitution for any loss arising from the violation or requiring the person to reimburse any profits arising from the violation;

(4) prohibit the person from future application for licensure pursuant to the act; and

(5) require such affirmative action as determined by the commissioner to carry out the purposes of this act.

(b) (1) The commissioner may enter into an informal agreement at any time with a person to resolve a matter arising under this act, rules and regulations adopted hereunder or an order issued pursuant to this act.

(2) Any informal agreement authorized by this subsection shall be considered confidential examination material. The adoption of an informal agreement authorized by this subsection shall not be:

(A) 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;

(B) considered an order or other agency action;

(C) subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto; or

(D) discovery or be admissible in evidence in any private civil action.

(3) The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2030, unless the legislature reviews and reenacts such provisions in accordance with the Kansas open records act, K.S.A. 45-229, and amendments thereto, prior to July 1, 2030.

(c) Through an examination finding, the commissioner may:

(1) Assess a fine against any licensee who violates this act or rules and regulations adopted thereto, in an amount not to exceed $5,000 per violation. The commissioner may designate any fine collected pursuant to this section be used for consumer education; or

(2) require the licensee to pay restitution for any loss arising from the violation or require the person to reimburse any profits arising from the violation.

(d) This section shall take effect on and after January 1, 2025.

New Sec. 42. (a) 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.

(b) This section shall take effect on and after January 1, 2025.

New Sec. 43. (a) Sections 43 through 58, and amendments thereto, shall be known and may be cited as the Kansas earned wage access services act.

(b) This act shall not apply to a:

(1) Bank holding company regulated by the federal reserve;

(2) depository institution regulated by a federal banking agency; or

(3) a subsidiary of either paragraph (1) or (2) if such subsidiary directly owns 25% of the bank holding company or depository institution's common stock.

New Sec. 44. As used in sections 43 through 58, and amendments thereto:

(a) "Act" means the Kansas earned wage access services act.

(b) "Commissioner" means the state bank commissioner or the commissioner's designee, who shall be the deputy commissioner of the consumer and mortgage lending division of the office of the state bank commissioner.

(c) "Consumer" means an individual who is a resident of this state. A provider may use the mailing address provided by a consumer to determine such consumer's state of residence for purposes of this act.

(d) "Consumer-directed wage access services" means offering or providing earned wage access services directly to consumers based on the consumer's representations and the provider's reasonable determination of the consumer's earned but unpaid income.

(e) "Director" means a member of the registrant's or applicant's board of directors.

(f) "Earned but unpaid income" means salary, wages, compensation or other income that a consumer has represented, and that a provider has reasonably determined, to have been earned or to have accrued to the benefit of the consumer in exchange for the consumer's provision of services to an employer or on behalf of an employer, including on an hourly, project-based, piecework or other basis and including where the consumer is acting as an independent contractor of the employer, but, at the time of the payment of proceeds, have not been paid to the consumer by the employer.

(g) "Earned wage access services" means the business of providing consumer-directed wage access services or employer-integrated wage access services, or both.

(h) "Employer-integrated wage access services" means the business of delivering to consumers access to earned but unpaid income that is based on employment, income and attendance data obtained directly or indirectly from an employer.

(i) "Fee" means a fee imposed by a provider for delivery or expedited delivery of proceeds to a consumer or a subscription or membership

fee imposed by a provider for a bona fide group of services that include earned wage access services. A voluntary tip, gratuity or donation shall not be deemed a fee.

(j) "Member" means someone who has the right to receive upon dissolution, or has contributed 10% or more of the capital, of a limited liability corporation or a limited liability partnership of the registrant or applicant.

(k) "Nationwide multistate licensing system and registry" or "registry" means a multistate licensing system developed by the conference of state bank supervisors and the American association of residential mortgage regulators and operated by the state regulatory agency, LLC, for the licensing and registration of non-depository financial service entities by participating state agencies or any successor to the nationwide multisystem licensing system and registry.

(l) "Non-mandatory payment" means the following:

(1) A charge imposed by a provider for delivery or expedited delivery of proceeds to a consumer so long as a provider offers the consumer at least one option to receive proceeds at no cost to the consumer;

(2) an amount paid by an obligor to a provider on a consumer's behalf that entitles the consumer to receive proceeds at no cost to the consumer;

(3) a subscription or membership charge imposed by a provider for a group of services that include earned wage access services so long as the provider offers the consumer at least one option to receive proceeds at no cost to the consumer; or

(4) a tip or gratuity paid by a consumer to a provider so long as the provider offers the consumer at least one option to receive proceeds at no cost to the consumer.

(m) "Nonrecourse" means a provider shall not compel or attempt to compel repayment by a consumer of outstanding proceeds or fees owed by such consumer to such provider through any of the following means:

(1) A civil suit against the consumer in a court of competent jurisdiction;

(2) use of a third party to pursue collection of outstanding proceeds or fees on the provider's behalf; or

(3) sale of outstanding amounts to a third-party collector or debt buyer.

(n) "Obligor" means an employer or other person who employs a consumer or any other person who is contractually obligated to pay a consumer earned but unpaid income in exchange for a consumer's provision of services to the employer or on behalf of the employer, including on an hourly, project-based, piecework or other basis, and including where the consumer is acting as an independent contractor.

(o) "Officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking

functions of the registrant or applicant, whether or not the person has an official title. "Officer" includes, but is not limited to, the chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief credit officer, chief compliance officer and every vice president.

(p) "Outstanding proceeds" means proceeds remitted to a consumer by a provider that have not yet been repaid to such provider.

(q) "Owner" means an individual who holds, directly or indirectly, at least 10% or more of a class of voting securities or the power to direct the management or policies of a registrant or an applicant.

(r) "Partner" means a person that has the right to receive upon dissolution, or has contributed, 10% or more of the capital of a partnership of the registrant or applicant.

(s) "Person" means any individual, corporation, partnership, association or other commercial entity.

(t) "Principal" of a registrant means a person that oversees the daily operations of a registrant or applicant and is not an owner or key individual of such registrant or applicant.

(u) "Proceeds" means a payment to a consumer by a provider that is based on earned but unpaid income.

(v) "Provider" means a person who is in the business of offering and providing earned wage access services to consumers.

(w) "Registrant" means a person who is registered with the commissioner as an earned wage access services provider.

New Sec. 45. (a) No person shall engage in or hold such person out as willing to engage in any earned wage access services business with a consumer without registering with the commissioner. Any person required to be registered as an earned wage access services provider shall submit to the commissioner an application for registration on forms prescribed and provided by the commissioner. Such application for registration shall include:

(1) The applicant's name, business address, telephone number and, if any, website address;

(2) the name and address of each owner, officer, director, member, partner or principal of the applicant;

(3) a description of the ownership interest of any officer, director, member, partner, agent or employee of the applicant in any affiliate or subsidiary of the applicant or in any other entity that provides any service to the applicant or any consumer relating to the applicant's earned wage access services business; and

(4) any other information the commissioner may deem necessary to evaluate the financial responsibility, financial condition, character, qualifications and fitness of the applicant.

(b) Each application for registration shall be accompanied by a nonrefundable fee.

(c) The commissioner shall approve an application and shall issue a nontransferable and nonassignable registration to the applicant when the commissioner:

(1) Receives the complete application and fee required by this section; and

(2) determines the financial responsibility, financial condition, character, qualifications and fitness warrants a belief that the business of the applicant will be conducted competently, honestly, fairly and in accordance with all applicable state and federal laws.

(d) Each earned wage access services registration issued under this section shall expire on December 31 of each year. A registration shall be renewed by filing a complete renewal application with the commissioner at least 30 calendar days prior to the expiration of the registration. Such renewal application shall contain all information the commissioner requires to determine the existence and effect of any material change from the information contained in the applicant's original application, annual reports or prior renewal applications. Each renewal application shall be accompanied by a nonrefundable renewal fee.

(e) If the commissioner fails to issue a registration within 60 calendar days after a filed application is deemed complete by the commissioner, the applicant may make written request for a hearing. Upon receipt of such written request for a hearing, the commissioner shall conduct a hearing in accordance with the Kansas administrative procedure act.

(f) Not later than the first day of the sixth month beginning after the effective date of this act, the commissioner shall prescribe the form and content of an application for registration to provide earned wage access services pursuant to this act.

(g) Notwithstanding the provisions of subsection (a), a person who, as of January 1, 2024, was engaged in the business of providing earned wage access services in this state may, until the commissioner has processed the person's application for registration, continue to engage in the business of providing earned wage access services in this state without registering if the person has submitted an application for registration within three months after the commissioner has prescribed the form and content of an application pursuant to subsection (f) and otherwise complies with this act.

(h) The registration requirements of this act shall not apply to individuals acting as employees or independent contractors of business entities required to register.

New Sec. 46. Each applicant or registrant shall file with the commissioner a surety bond in a form acceptable to the commissioner. Such surety bond shall be issued by a surety or insurance company authorized to conduct business in this state, securing the applicant's or registrant's

faithful performance of all duties and obligations of a registrant. The surety bond shall:

(a) Be payable to the office of the state bank commissioner;

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

(c) provide that the bond shall not expire for two years after the date of surrender, revocation or expiration of the applicant's or registrant's registration, whichever occurs first;

(d) be available for:

(1) The recovery of expenses, fines and fees levied by the commissioner under this act; and

(2) payment of losses or damages that are determined by the commissioner to have been incurred by any consumer as a result of the applicant's or registrant's failure to comply with the requirements of this act; and

(e) be in the amount of $100,000.

New Sec. 47. A provider that is registered in the state of Kansas shall be subject to the following requirements:

(a) The registrant shall provide all proceeds on a non-recourse basis and shall treat all fees and non-mandatory payments as non-recourse payment obligations.

(b) The registrant shall develop and implement policies and procedures to respond to questions raised by consumers and address complaints from consumers in an expedient manner.

(c) Before entering into an agreement with a consumer for the provision of earned wage access services, the registrant shall:

(1) Inform the consumer of their rights under the agreement;

(2) fully and clearly disclose all fees associated with the earned wage access services; and

(3) clearly and conspicuously describe how the consumer may obtain proceeds at no cost to such consumer.

(d) A registrant shall inform the consumer of any material changes to the terms and conditions of the earned wage access services before implementing such changes for such consumer.

(e) The registrant shall provide proceeds to a consumer via any means mutually agreed upon by the consumer and registrant.

(f) The registrant shall allow a consumer to cancel the use of the provider's earned wage access services at any time without incurring a cancellation fee or penalty imposed by the provider.

(g) The registrant shall comply with all applicable federal, state and local privacy and information security laws.

(h) If a registrant solicits, charges or receives a tip, gratuity or other donation from a consumer, the registrant shall disclose:

(1) To the consumer immediately prior to each transaction that a tip, gratuity or other donation amount may be zero and is voluntary; and

(2) in its agreement with the consumer and elsewhere that tips, gratuities or other donations are voluntary and that the offering of earned wage access services, including the amount of proceeds a consumer is eligible to request and the frequency with which proceeds are provided to a consumer, is not contingent on whether the consumer pays any tip, gratuity or donation or on the size of any tip, gratuity or other donation.

(i) If a registrant will seek repayment of outstanding proceeds or payment of fees or other amounts owed, including voluntary tips, gratuities or other donations, in connection with earned wage access services from a consumer's depository institution, including by means of electronic funds transfer, the registrant shall do all of the following:

(1) Inform the consumer when the provider will make each attempt to seek repayment of the proceeds from the consumer;

(2) comply with applicable provisions of the federal electronic fund transfer act, 15 U.S.C. § 1693 et seq., and any regulations adopted thereunder; and

(3) reimburse the consumer for the full amount of any overdraft or nonsufficient funds fees imposed on a consumer by the consumer's depository institution that were caused by the provider attempting to seek payment of any outstanding proceeds, fees or other payments in connection with earned wage access services, including voluntary tips, gratuities or other donations, on a date before, or in an incorrect amount from, the date or amount disclosed to the consumer. Notwithstanding the provisions of this paragraph, no provider shall be subject to the requirements of this paragraph with respect to payments of outstanding proceeds or fees incurred by a consumer through fraudulent or other unlawful means.

New Sec. 48. No person required to be registered under this act shall:

(a) Compel or attempt to compel repayment by a consumer of outstanding proceeds or payments owed by such consumer to the registrant through any of the following means:

(1) A civil suit against the consumer in a court of competent jurisdiction;

(2) use of a third party to pursue collection of outstanding proceeds or payments on the provider's behalf;

(3) use of outbound telephone calls to attempt collection; or

(4) sale of outstanding amounts to a third-party debt collector or debt purchaser;

(b) charge a late fee, a deferral fee, interest or any other penalty or charge for failure to repay outstanding proceeds, fees, voluntary tips, gratuitites or other donations;

(c) charge interest or finance charges:

(d) charge an unreasonable fee to provide expedited delivery of proceeds to a consumer;

(e) share with an employer a portion of any fees, voluntary tips, gratuities or other donations that were received from or charged to a consumer for earned wage access services;

(f) condition the amount of proceeds that a consumer is eligible to request or the frequency with which a consumer is eligible to request proceeds on whether such consumer pays fees, voluntary tips, gratuities or other donations or on the size of any fee, voluntary tip, gratuity or other donation that such consumer may make to such registrant in connection with the provision of earned wage access services;

(g) mislead or deceive consumers about the voluntary nature of tips, gratuities or other donations or make representations that tips, gratuities or other donations will benefit any specific individuals if the registrant solicits, charges or receives tips, gratuities or other donations from a consumer;

(h) charge a deferral fee or any other charge in connection with deferring the collection of any outstanding proceeds beyond the original scheduled repayment date;

(i) accept credit of any kind as payment from a consumer of outstanding proceeds or non-mandatory payments;

(j) report a consumer's payment or failed repayment of outstanding proceeds to a consumer credit reporting agency or a debt collector; or

(k) require a credit score to determine a consumer's eligibility for earned wage access services.

New Sec. 49. (a) For purposes of the laws of this state:

(1) Earned wage access services provided by a registrant in accordance with this chapter shall not be considered to be:

(A) A loan or other form of credit or the registrant a creditor or lender with respect thereto;

(B) in violation of or noncompliant with the laws of this state governing the sale or assignment of, or an order for, earned but unpaid income; or

(C) money transmission or the registrant a money transmitter with respect thereto.

(2) Fees, voluntary tips, gratuities or other donations paid to such a registrant in accordance with this chapter shall not be considered interest or finance charges.

(b) A registrant that provides proceeds to a consumer in accordance with this act shall not be subject to the provisions of the uniform consum-

er credit code in connection with such registrant's earned wage access services.

(c) If there is a conflict between the provisions of this act and any other state statute, the provisions of this act control.

New Sec. 50. (a) (1) On or before April 1 of each year, each registrant shall file with the commissioner an annual report relating to earned wage access services provided by the registrant in this state during the preceding calendar year. The annual report shall be on a form prescribed by the commissioner.

(2) The information contained in the annual report shall be confidential and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The commissioner may publish aggregate annual report information for multiple registrants in composite form. The provisions of this paragraph shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(b) Within 15 calendar days of any of the following events, a registrant shall file a written report with the commissioner describing the event and such event's expected impact on the registrant's business:

(1) The filing for bankruptcy or reorganization by the registrant;

(2) the institution of a revocation, suspension or other proceeding against the registrant by a governmental authority that is related to the registrant's earned wage access services business in any state;

(3) the addition or loss of any owner, officer, partner, member, principal or director of the registrant;

(4) a felony conviction of the registrant or any of such registrant's owners, officers, members, principals, directors or partners;

(5) a change in the registrant's name or legal entity status; or

(6) the closing or relocation of the registrant's principal place of business.

(c) If a registrant fails to make any report to the commissioner as required by this section, the commissioner may require the registrant to pay a late penalty of $100 for each day such report is overdue.

New Sec. 51. (a) Each registrant shall maintain and preserve complete and adequate business records, including a general ledger containing all assets, liabilities, capital, income and expense accounts for a period of three years.

(b) Each registrant shall maintain and preserve complete and adequate records of each earned wage access services contract during the term of the contract and for a period of five years from the date on which the registrant last provides proceeds to the consumer.

(c) The registrant shall provide the records to the commissioner within three business days of the commissioner's request or, at the com-

missioner's discretion, pay reasonable and necessary expenses for the commissioner or commissioner's designee to examine them at the place where such records are maintained. The registrant may provide such records electronically to the commissioner in a manner prescribed by the commissioner.

New Sec. 52. The commissioner may deny, suspend, revoke or refuse to renew a registration issued pursuant to this act if the commissioner finds, after notice and opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that:

(a) The applicant or registrant has repeatedly or willfully violated any provision of this act, any rules and regulations adopted thereunder or any order lawfully issued by the commissioner pursuant to this act;

(b) the applicant or registrant has failed to file and maintain the surety bond required under this act;

(c) the applicant or registrant is insolvent;

(d) the applicant or registrant has filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact;

(e) the applicant, registrant or any officer, director, member, owner, partner or principal of the applicant or registrant has been convicted of any crime;

(f) the applicant or registrant fails to keep and maintain sufficient records to permit an audit satisfactorily disclosing to the commissioner the applicant's or registrant's compliance with the provisions of this act and applicable federal law;

(g) the applicant, registrant or an employee of the applicant or registrant has been the subject of any disciplinary action by the commissioner or any other state or federal regulatory agency;

(h) a final judgment has been entered against the applicant or registrant in a civil action and the commissioner finds that the conduct on which the judgment is based indicates that it would be contrary to the public interest to permit such person to be registered;

(i) the applicant or registrant has engaged in any deceptive business practice;

(j) facts or conditions exist that would have justified the denial of the registration or renewal had such facts or conditions existed or been known to exist at the time the application for registration or renewal was made; or

(k) the applicant or registrant has refused to furnish information required by the commissioner within a reasonable period of time as established by the commissioner.

New Sec. 53. (a) The commissioner shall administer the provisions of this act. In addition to other powers granted by this act, the commissioner, within the limitations provided by law, may exercise the following powers:

(1) Adopt, amend and revoke rules and regulations as necessary to carry out the intent and purpose of this act;

(2) make any investigation and examination of the operations, books and records of an earned wage access services provider as the commissioner deems necessary to aid in the enforcement of this act;

(3) have free and reasonable access to the offices, places of business and all records of the registrant that will enable the commissioner to determine whether the registrant is complying with the provisions of this act. The commissioner may designate persons, including comparable officials of the state in which the records are located, to inspect the records on the commissioner's behalf;

(4) establish, charge and collect fees from applicants or registrants for reasonable costs of investigation, examination and administration of this act, in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. The commissioner may maintain an action in any court to recover such costs;

(5) order any registrant or person to cease any activity or practice that the commissioner deems to be deceptive, dishonest, a violation of this act, or of any other state or federal law, or unduly harmful to the interests of the public;

(6) exchange any information regarding the administration of this act with any agency of the United States or any state that regulates the applicant or registrant or administers statutes, rules and regulations or programs related to earned wage access services laws with any attorney general or district attorney with jurisdiction to enforce criminal violations of this act;

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

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

(9) 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;

(10) delegate the authority to sign any orders, official documents or papers issued under or related to this act to the deputy of consumer and mortgage lending division of the office of the state bank commissioner;

(11) (A) require fingerprinting of any officer, partner, member, owner, principal or director of an applicant or registrant. 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 to be submitted to the office of the state bank commissioner. 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 office of the state bank commissioner may use information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the persons associated with the applicant. Whenever the office of the state bank commissioner requires fingerprinting, any associated costs shall be paid by the applicant or the parties to the application.

(B) The Kansas bureau of investigation shall release all records of adult convictions, adjudications, and juvenile adjudications in Kansas and of another state or country to the office of the state bank commissioner. The office of the state bank commissioner shall not disclose or use a state and national criminal history record check for any purpose except as provided for in this section. Unauthorized use of a state or national criminal history record check shall constitute a class A nonperson misdemeanor.

(C) Each state and national criminal history record check shall be confidential, not subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, and not be disclosed to any applicant or registrant. The provisions of this subparagraph shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029;

(12) issue, amend and revoke written administrative guidance documents in accordance with the applicable provisions of the Kansas rules and regulations filing act;

(13) enter into any informal agreement with any person for a plan of action to address violations of this act; and

(14) require use of a nationwide multi-state licensing system and registry for processing applications, renewals, amendments, surrenders and any other activity that the commissioner deems appropriate. The commissioner may establish relationships or contracts with the nationwide multi-state licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants and licensees, as may be reasonably necessary to participate in the nationwide multi-state licensing system and registry. The commissioner may report violations of the law, as well as enforcement actions and other relevant information to the nationwide multi-state licensing system and registry. The commissioner may require any applicant or licensee to file reports with the nationwide multi-state licensing system and registry in the form prescribed by the commissioner.

(b) Examination reports and correspondence regarding such reports made by the commissioner or the commissioner's designees shall be confidential and shall not be subject to the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto. The commissioner may release examination reports and correspondence regarding the reports in connection with a disciplinary proceeding conducted by the commissioner, a liquidation proceeding or a criminal investigation or proceeding. Additionally, the commissioner may furnish to federal or other state regulatory agencies or any officer or examiner thereof, a copy of any or all examination reports and correspondence regarding the reports made by the commissioner or the commissioner's designees. The provisions of this subsection shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(c) For the purpose of any examination, investigation or proceeding under this act, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, introduce evidence and require the production of any matter 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.

(d) The adoption of an informal agreement authorized by this section shall not be subject to the provisions of the Kansas administrative procedure act or the Kansas judicial review act. Any informal agreement authorized by this subsection shall not be considered an order or other agency action and shall be considered confidential examination material. All such examination material shall be confidential by law and privileged, shall not be subject to the provisions of 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 subsection shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

New Sec. 54. (a) If the commissioner determines after notice and opportunity for a hearing pursuant to the Kansas administrative procedure act that any person has engaged, is engaging or is about to engage in any act or practice constituting a violation of any provision of this act, any rules and regulations adopted or order issued thereunder, the commissioner may issue an order requiring any or all of the following:

(1) That the person cease and desist from the unlawful act or practice;

(2) that the person pay a fine not to exceed $5,000 per incident for the unlawful act or practice;

(3) if any person is found to have violated any provision of this act and such violation is committed against elder or disabled persons as defined in K.S.A. 50-676, and amendments thereto, the commissioner may impose an additional penalty not to exceed $5,000 for each such violation, in addition to any civil penalty otherwise provided by law;

(4) that the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation. Such order may include the assessment of interest not to exceed 8% per annum from the date of the violation;

(5) that the person take such action as in the judgment of the commissioner will carry out the purposes of this act; or

(6) that the person be barred from subsequently applying for registration under this act.

(b) (1) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commissioner may issue an emergency cease and desist order.

(2) Such emergency order, even if not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto.

(3) Upon the entry of such an emergency order, the commissioner shall promptly notify the person subject to the order that such order has been entered, the reasons for such order and that a hearing will be held upon written request by such person.

(4) If such person requests a hearing or, in the absence of any request, if the commissioner determines that a hearing should be held, the matter shall be set for a hearing that shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Upon completion of the hearing the commissioner shall, by written findings of fact and conclusions of law, vacate, modify or make permanent the emergency order.

(5) If no hearing is requested and none is ordered by the commissioner, the emergency order shall remain in effect until such order is modified or vacated by the commissioner.

(6) Fines and penalties collected pursuant to paragraphs (2) and (3) shall be designated for use by the commissioner for consumer education.

New Sec. 55. (a) In case of failure or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue an order requiring such person to appear before the commissioner, or the commissioner's designee, to produce documentary evidence if so ordered or to give evidence relating to the

matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as contempt of court.

(b) No person shall be excused from attending, testifying or producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or the commissioner's designee, or in any proceeding instituted by the commissioner, on the ground that such 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.

New Sec. 56. It is unlawful for any person to violate the provisions of this act, any rules and regulations adopted or any order issued under this act. A conviction for an intentional violation is a class A nonperson misdemeanor. A second or subsequent conviction of this section is a severity level 7, nonperson felony. No person may be imprisoned for the violation of this section if such person proves that such person had no knowledge of the act, rules and regulations or order.

New Sec. 57. The commissioner, attorney general or a county or district attorney may bring an action in a district court to enjoin any violation of this act or any rules and regulations adopted thereunder.

New Sec. 58. All fees collected by the commissioner pursuant to this act shall be subject to the provisions of K.S.A. 75-1308, and amendments thereto.

Sec. 59. K.S.A. 9-535 is hereby amended to read as follows: 9-535. (a) The commissioner shall approve the application if the commissioner determines that the application favorably meets each and every factor prescribed in K.S.A. 9-534, and amendments thereto, the proposed acquisition is in the interest of the depositors and creditors of the Kansas state chartered bank or bank holding company that has an ownership interest in a Kansas state chartered bank ~~which~~ *that* is the subject of the proposed acquisition and in the public interest generally. ~~Otherwise, the application shall be denied.~~

(b) If the commissioner denies the application, the applicant shall have the right to a hearing before the state banking board to be conducted in accordance with the Kansas administrative procedure act. The state banking board shall render the board's decision affirming or rescinding the determination of the commissioner. Any action of the state banking board pursuant to this section is subject to review in accordance with the Kansas judicial review act.

Sec. 60. K.S.A. 9-806 is hereby amended to read as follows: 9-806. *(a) If the applicant fails to complete any application under the state banking code within 60 days after being notified that the application is incomplete, such application shall be considered abandoned and the application fee shall not be refunded. An applicant whose application is abandoned under this section may reapply at any time.*

(b) Except as provided by subsection (c), the bank or trust company shall engage in the activity requiring an application and approval by the commissioner or state banking board within 18 months from the date of approval. If the bank or trust company fails to engage in the activity within 18 months from the date of the approval, the application shall be deemed expired and a new application, application fee and approval is required. The provisions of this subsection do not apply to applications approved under K.S.A. 9-1601, and amendments thereto.

(c) Any newly organized bank or trust company ~~which~~ *that* did not begin business within 120 days after a certificate of authority has been issued to such bank or trust company by the commissioner shall not engage in the banking business or the business of a trust company without again obtaining a certificate of authority from the commissioner.

(d) The commissioner may extend the deadline under subsection (b) or (c):

(1) Indefinitely, if approval from another state or federal regulator is necessary for the bank or trust company to engage in the activity; or

(2) up to 180 days for good cause.

(e) The state banking board may designate the commissioner to determine the completeness of any application requiring state banking board approval or deem as expired any state banking board approved application.

Sec. 61. K.S.A. 9-1204 is hereby amended to read as follows: 9-1204. *(a)* Any ~~bank may receive deposits from minors or in the name of minors and pay the same upon the order of such minors whether or not such minors are emancipated. Payments so made shall discharge the bank from any further liability on the account~~ *person, regardless of age, may become a depositor in any bank and shall be subject to the same duties and liabilities respecting such person's deposits. Whenever a deposit is accepted by any bank in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by any of the following methods:*

(1) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if the check or other instrument in writing is signed by the depositor and constitutes a valid release and discharge to the bank for all payments made; or

(2) electronic means through:

(A) Preauthorized direct withdrawal;

(B) an automatic teller machine;

(C) a debit card;

(D) a transfer by telephone;

(E) a network, including the internet; or

(F) any electronic terminal, computer, magnetic tape or other electronic means.

(b) Any bank that accepts deposits from minors 16 years of age or older in the custody of the secretary for children and families, a federally recognized Indian tribe in this state or the secretary of corrections shall not require a cosigner or the funds to be deposited with the consent of the custodian. Such minor shall be responsible for banking costs or penalties associated with such deposits. The secretary, or their designee, or any foster or biological parent shall not be responsible for banking costs or penalties associated with such deposits.

(c) Any person, regardless of age, individually or with others may enter into an agreement with a bank for the lease of a safe deposit box and shall be bound by the terms of such agreement.

(d) This section shall not be construed to affect the rights, liabilities or responsibilities of participants in an electronic fund transfer under the federal electronic fund transfer act, 15 U.S.C. § 1693 et seq., as in effect on July 1, 2024, and shall not affect the legal relationship between a minor and any person other than the bank.

Sec. 62. K.S.A. 9-1721 is hereby amended to read as follows: 9-1721. (a) The person proposing to acquire control or a bank or trust company undertaking a merger transaction, hereinafter referred to as the applicant, shall file ~~an~~ *a complete* application with the commissioner at least 60 days prior to the proposed change of control or merger transaction. If the commissioner does not act on the *complete* application within the 60-day time period *and the applicant has received approval from all other applicable federal and state agencies*, the application shall stand approved. The commissioner may, for any reason, extend the time period to act on an application for an additional 30 days. The time period to act on an application may be further extended if the commissioner determines that the applicant has not furnished all the information required under K.S.A. 9-1722, and amendments thereto, or that, in the commissioner's judgment, any material information submitted is substantially inaccurate. The commissioner may waive the 60-day prior notice requirement if the acquired bank or trust company is under a formal corrective action.

(b) Upon the filing of an application, the commissioner shall make an investigation of the applicant for the change of control or merger transaction. The commissioner may deny the application if the commissioner finds the:

(1) Proposed change of control or merger transaction would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or attempt to monopolize the business of banking or trust services in any part of this state;

(2) financial condition of the applicant might jeopardize the financial stability of the bank or trust company or prejudice the interests of the depositors of a bank;

(3) competence, experience or integrity of the applicant or of any of the proposed management personnel of the bank or trust company or resulting bank or trust company indicates it would not be in the interest of the depositors of the bank, the clients of trust services, or in the interest of the public; or

(4) applicant neglects, fails or refuses to furnish the commissioner with all of the information required by the commissioner.

(c) Upon service of an order denying an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act before the state banking board. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.

Sec. 63. K.S.A. 9-2107 is hereby amended to read as follows: 9-2107. (a) As used in this section:

(1) "Contracting trustee" means any trust company, as defined in K.S.A. 9-701, and amendments thereto, any bank that has been granted trust authority by the commissioner under K.S.A. 9-1602, and amendments thereto, any national bank chartered to do business in Kansas that has been granted trust authority by the comptroller of the currency under 12 U.S.C. § 92a, any bank that has been granted trust authority or any trust company, regardless of where such bank or trust company is located, that is controlled, as defined in K.S.A. 9-1612, and amendments thereto, by the same bank holding company as any trust company, state bank or national bank chartered to do business in Kansas, which accepts or succeeds to any fiduciary responsibility as provided in this section;

(2) "originating trustee" means any trust company, bank, national banking association, savings and loan association or savings bank ~~which~~ *that* has trust powers ~~and its principal place of business is in this state~~ and ~~which~~ places or transfers any fiduciary responsibility to a contracting trustee as provided in this section; and

(3) "financial institution" means any bank, national banking association, savings and loan association or savings bank ~~which~~ *that* has its principal place of business in this state but ~~which~~ *that* does not have trust powers.

(b) Any contracting trustee and any originating trustee may enter into an agreement by which the contracting trustee, without any further au-

thorization of any kind, succeeds to and is substituted for the originating trustee as to all fiduciary powers, rights, duties, privileges and liabilities with respect to all accounts for which the originating trustee serves in any fiduciary capacity, except as may be provided otherwise in the agreement. Notwithstanding the provisions of this section, ~~no contracting trustee with a home office outside the state of Kansas shall enter into an agreement except with an originating trustee which is commonly controlled as defined in K.S.A. 9-1612, and amendments thereto, by the same bank holding company~~ *either the contracting trustee or the originating trustee shall have its principal place of business in this state*.

(c) Unless the agreement expressly provides otherwise, upon the effective date of the substitution:

(1) The contracting trustee shall be deemed to be named as the fiduciary in all writings, including, without limitation, trust agreements, wills and court orders, which pertain to the affected fiduciary accounts; and

(2) the originating trustee is absolved from all fiduciary duties and obligations arising under such writings and shall discontinue the exercise of any fiduciary duties with respect to such writings, except that the originating trustee is not absolved or discharged from any duty to account required by K.S.A. 59-1709, and amendments thereto, or any other applicable statute, rule of law, rules and regulations or court order, nor shall the originating trustee be absolved from any breach of fiduciary duty or obligation occurring prior to the effective date of the agreement.

(d) The agreement may authorize the contracting trustee:

(1) To establish a trust service desk at any office of the originating trustee at which the contracting trustee may conduct any trust business and any business incidental thereto and which the contracting trustee may otherwise conduct at its principal place of business; and

(2) to engage the originating trustee as the agent of the contracting trustee, on a disclosed basis to customers, for the purposes of providing administrative, advertising and safekeeping services incident to the fiduciary services provided by the contracting trustee.

(e) Any contracting trustee may enter into an agreement with a financial institution providing that the contracting trustee may establish a trust service desk as authorized by subsection (d) in the offices of such financial institution and which provides such financial institution, on a disclosed basis to customers, may act as the agent of contracting trustee for purposes of providing administrative services and advertising incident to the fiduciary services to be performed by the contracting trustee.

(f) No activity authorized by subsections (b) through (e) shall be conducted by any contracting trustee, originating trustee or financial insti-

tution until an application for such authority has been submitted to and approved by the commissioner. The application shall be in the form and contain the information required by the commissioner, which shall at a minimum include certified copies of the following documents:

(1) The agreement;

(2) the written action taken by the board of directors of the originating trustee or financial institution approving the agreement;

(3) all other required regulatory approvals;

(4) proof of publication of notice that the applicant intends to file or has filed an application pursuant to this section. The notice shall be published in a newspaper of general circulation in the county where the principal office of the originating trustee or financial institution is located. The notice shall be in the form prescribed by the commissioner and shall contain the name of the applicant contracting trustee and the originating trustee, and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 days after the date of the second publication; and

(5) a certification by the parties to the agreement that written notice of the proposed substitution was sent by first-class mail to each co-fiduciary, each surviving settlor of a trust, each ward of a guardianship, each person that has sole or shared power to remove the originating trustee as fiduciary and each adult beneficiary currently receiving or entitled to receive a distribution of principle or income from a fiduciary account affected by the agreement, and that such notice was sent to each such person's address as shown in the originating trustee's records. An unintentional failure to give such notice shall not impair the validity or effect of any such agreement, except an intentional failure to give such notice shall render the agreement null and void as to the party not receiving the notice of substitution.

(g) A contracting trustee making application to the commissioner for approval of any agreement pursuant to this section shall pay to the commissioner a fee, in an amount established pursuant to K.S.A. 9-1726, and amendments thereto, to defray the expenses of the commissioner in the examination and investigation of the application. The commissioner shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bank investigation fund. The moneys in the bank investigation fund shall be used to pay the expenses of the commissioner, or designee, in the examination and investigation of such applications and any unused balance shall be transferred to the bank commissioner fee fund.

(h) Upon the filing of a complete application with the commissioner, the commissioner shall make or cause to be made, a careful examination and investigation of the proposed agreement. If the commissioner finds any of the following matters unfavorably, the commissioner may deny the application:

(1) The reasonable probability of usefulness and success of the contracting trustee; and

(2) the financial history and condition of the contracting trustee including the character, qualifications and experience of the officers employed by the contracting trustee.

(i) The commissioner shall render approval or disapproval of the application within 90 days of receiving a complete application.

(j) Upon service of an order denying an application, the applicant shall have the right to a hearing to be conducted in accordance with the Kansas administrative procedure act before the state banking board. Any final order of the commissioner pursuant to this section is subject to review in accordance with the Kansas judicial review act.

(k) When the commissioner determines that any contracting trustee domiciled in this state has entered into a contracting agreement in violation of the laws governing the operation of such contracting trustee, the commissioner may take such action as available under K.S.A. 9-1714, 9-1805, 9-1807 or 9-1809, and amendments thereto, to remedy such violation.

(l) Any party entitled to receive a notice under subsection (f)(5) may file a petition in the court having jurisdiction over the fiduciary relationship, or if none, in the district court in the county where the originating trustee has its principal office, seeking to remove any contracting trustee substituted or about to be substituted as fiduciary pursuant to this section. Unless the contracting trustee files a written consent to its removal or a written declination to act subsequent to the filing of the petition, the court, upon notice and hearing, shall determine the best interest of the petitioner and all other parties concerned and shall fashion such relief as the court deems appropriate in the circumstances, including the awarding of reasonable attorney fees. The right to file a petition under this subsection shall be in addition to any other rights to remove the fiduciary provided by any other statute or regulation or by the writing creating the fiduciary relationship. If the removal of the fiduciary is prompted solely as a result of the contracting agreement, any reasonable cost associated with such removal and transfer shall be paid by the originating trustee or financial institution entering into the agreement.

Sec. 64. K.S.A. 9-535, 9-806, 9-1204, 9-1721 and 9-2107 are hereby repealed.

Sec. 65. On and after January 1, 2025, K.S.A. 9-508, 9-509, 9-510, 9-510a, 9-511, 9-513, 9-513a, 9-513b, 9-513c, 9-513d and 9-513e and K.S.A. 2023 Supp. 9-512 are hereby repealed.

Sec. 66. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 19, 2024.

CHAPTER 65

HOUSE BILL No. 2711

AN ACT concerning state-managed funds; relating to investment procedures, standards and requirements therefor and certain retirement benefits therefrom; enacting the countries of concern divestment act; requiring divestment from investments with countries of concern and providing exceptions therefor; prohibiting investments and deposits with any bank or company domiciled in a country of concern; indemnifying state-managed funds with respect to actions taken in compliance with such act; providing an expiration date for such act; relating to the Kansas public employees retirement system and systems thereunder; Kansas public employees retirement fund; increasing the statutory alternative investment percentage limit to 25%; increasing the membership waiting period for direct support positions of community service providers; increasing the lump-sum death benefit; employment after retirement; increasing the amount of retirant compensation subject to the statutory employer contribution rate; providing an exemption for retirants employed by a community developmental disability organization or a community service provider affiliated with a community developmental disability organization in a licensed professional nurse, licensed practical nurse or direct support position; increasing the earnings limit for members of the Kansas police and firemen's retirement system; amending K.S.A. 74-4937, 74-4957, 74-4957a, 74-4989 and 74-49,315 and K.S.A. 2023 Supp. 74-4911, 74-4914 and 74-4921 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 7, and amendments thereto, shall be known and may be cited as the countries of concern divestment act.

New Sec. 2. As used in this act:

(a) "Act" means the countries of concern divestment act.

(b) "Company" means any:

(1) For-profit corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, trust, association, sole proprietorship or other organization, including any:

(A) Subsidiary of such company, a majority ownership interest of which is held by such company;

(B) parent company that holds a majority ownership of such company; and

(C) other affiliate or business association of such company whose primary purpose is to make a profit; or

(2) nonprofit organization.

(c) (1) "Country of concern" means the following:

(A) People's republic of China, including the Hong Kong special administrative region;

(B) republic of Cuba;

(C) islamic republic of Iran;

(D) democratic people's republic of Korea;

(E) Russian federation; and

(F) Bolivarian republic of Venezuela.

(2) "Country of concern" does not include the republic of China (Taiwan).

(d) "Covered transaction" means the same as defined in 31 C.F.R. § 800.213, as in effect on July 1, 2024.

(e) "Covered control transaction" means the same as defined in 31 C.F.R. § 800.210, as in effect on July 1, 2024.

(f) "Domicile" means the country where:

(1) A company is organized;

(2) a company completes a substantial portion of its business; or

(3) a majority of a company's ownership interest is held.

(g) "Person" means an individual.

(h) "Person owned or controlled by or subject to the jurisdiction or direction of a country of concern" means any:

(1) Person, wherever located, who is a citizen of a nation-state controlled by a country of concern, unless such person is a lawful permanent resident of the United States; or

(2) corporation, partnership, association or other organization organized under the laws of a nation-state controlled by a country of concern.

(i) "State agency" means any department, authority, bureau, division, office or other governmental agency of this state.

(j) "State-managed fund" means:

(1) The Kansas public employees retirement fund managed by the board of trustees of the Kansas public employees retirement system in accordance with K.S.A. 74-4921, and amendments thereto;

(2) the pooled money investment portfolio managed by the pooled money investment board in accordance with article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto; and

(3) any other fund that is sponsored or managed by a state agency.

New Sec. 3. (a) (1) Notwithstanding the provisions of K.S.A. 74-4921, and amendments thereto, or any other statute to the contrary, and except as provided in paragraph (2), a state-managed fund shall sell, redeem, divest or withdraw all publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern in accordance with the following schedule:

(A) At least 50% of such assets shall be removed from the state-managed fund's assets under management not later than July 1, 2025, or one year from the date section 2, and amendments thereto, is amended to include such country of concern if amended after July 1, 2024, unless the state-managed fund determines that a later date is more prudent based on a good faith exercise of the state-managed fund's fiduciary discretion and subject to subparagraph (B); and

(B) 100% of such assets shall be removed from the state-managed fund's assets under management not later than January 1, 2026, or one year from the date section 2, and amendments thereto, is amended to include such country of concern if amended after July 1, 2024.

(2) If a country of concern takes action to prohibit or restrict the selling, redeeming, divesting or withdrawing of publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern beyond the scheduled removal dates provided in paragraph (1), the state-managed fund shall remove 100% of such assets from the state-managed fund's assets not later than one year from the date that such action is ended by such country of concern.

(b) A state-managed fund shall not knowingly acquire securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern.

(c) A state-managed fund shall not invest or make a deposit in any bank that is domiciled in a country of concern.

New Sec. 4. (a) Notwithstanding the provisions of K.S.A. 74-4921, and amendments thereto, or any other statute to the contrary, a state-managed fund shall divest from any indirect holdings in actively or passively managed investment funds containing publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern. Such state-managed fund may submit letters to the managers of each investment fund containing publicly traded securities of any country of concern or person owned or controlled by or subject to the jurisdiction or direction of a country of concern requesting that they remove such publicly traded securities from the fund or create a similar actively or passively managed fund with indirect holdings devoid of such publicly traded securities. If a manager creates a similar fund with substantially the same management fees and substantially the same level of investment risk and anticipated return, the state-managed fund may replace all applicable investments with investments in the similar fund in a time frame consistent with prudent fiduciary standards but not later than the 450th day after the date the fund is created. If a manager does not create such similar fund, the state-managed fund shall divest from such indirect holdings in actively or passively managed investment funds.

(b) (1) The provisions of this act shall not apply to any real estate or private equity investment commitment made by a state-managed fund prior to July 1, 2024, or to a real estate or private equity investment commitment made by a state-managed fund prior to the date that section 2, and amendments thereto, is amended to include a country of concern, if amended after July 1, 2024.

(2) On and after July 1, 2024, a state-managed fund shall not make any new real estate or private equity investment commitment in a person owned or controlled by or subject to the jurisdiction of a country of concern.

New Sec. 5. Not later than the first day of the regular session of the legislature, each year, each state-managed fund shall file a report with the legislature and the Kansas public employees retirement system shall also file such report with the joint committee on pensions, investments and benefits that:

(a) Identifies all securities sold, redeemed, divested or withdrawn in compliance with section 3(a), and amendments thereto;

(b) identifies amendments to section 2, and amendments thereto, that add or remove a country of concern after the later of July 1, 2024, or the last date such information was reported under this section; and

(c) summarizes any changes made under section 4, and amendments thereto.

New Sec. 6. In a cause of action based on an action, inaction, decision, divestment, investment, report or other determination made or taken in compliance with this act, without regard to whether the person performed services for compensation, the state shall indemnify and hold harmless for actual damages, court costs and attorney fees adjudged against members of a state-managed fund or any other officers of such state-managed fund related to the act or omission on which the damages are based and defend the state-managed fund and any of such state-managed fund's current and former employees.

New Sec. 7. (a) The provisions of this act shall expire on July 1, 2029.

(b) On or after July 1, 2028, but before July 15, 2028, the Kansas public employees retirement system shall notify the speaker of the house of representatives, the president of the senate and the chairperson of the joint committee on pensions, investments and benefits that this act is scheduled to expire on July 1, 2029.

Sec. 8. K.S.A. 2023 Supp. 74-4911 is hereby amended to read as follows: 74-4911. (1) Any employee of a participating employer other than an elected official on the entry date of such employer shall be a member of the system on either the entry date or the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later, except that an employee of a participating employer who was first employed by a participating employer on or after July 1, 2008, but before July 1, 2009, shall be a member on July 1, 2009, and except that an employee who is first employed by a participating employer on or after July 1, 2009, shall be a member of the system on the first day of employment of such employee with such participating employer. On

and after July 1, 2019, employees employed in direct support positions of an affiliated employer organized under K.S.A. 19-4001, and amendments thereto, ~~and~~ *or* defined under K.S.A. 39-1803, and amendments thereto, may become a member of the system on the first day of the payroll period coinciding with or following the completion of a two-year period of training, whichever is later. For purposes of this act occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(2) Except as otherwise provided in this subsection, any employee other than an elected official who is employed by a participating employer after the entry date of such employer shall be a member of the system on the first day of the payroll period coinciding with or following completion of one year of continuous service. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in continuous service for purposes of determining the membership date of such employee. For purposes of this subsection, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the one year of continuous service requirement contained in this subsection.

(3) Any employee who is an elected official and is eligible to join the system shall file, within 90 days after taking the oath of office, an irrevocable election to become or not to become a member of the system. Such election shall become effective immediately upon making such election, if such election is made within 14 days of taking the oath of office or, otherwise, on the first day of the first payroll period of the first quarter following receipt of the election in the office of the retirement system. In the event that such elected official fails to file the election to become a member of the retirement system, it shall be presumed that such person has elected not to become a member.

(4) Except as otherwise required by USERRA, any employee other than an elected official who is in military service or on leave of absence on the entry date of such employee's employer shall become a member of the system upon returning to active employment or on the first day of the payroll period coinciding with or following the completion of one year of service, whichever is later. For purposes of this act, occasional breaks in service which shall not exceed an aggregate of 10 days in any such year shall not constitute a break in service for purposes of determining the membership date of such employee.

(5) Any employee of the state of Kansas other than an elected official, who is receiving or is eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto, and who becomes ineligible for such assistance because such employee's position is reclassified to a position in the classified service under the Kansas civil service act, or who becomes ineligible for such assistance because such person accepts and transfers to a position in the classified service under the Kansas civil service act shall be a member of the system on the first day of the payroll period coinciding with or following the effective date of such reclassification or transfer. Any such employee who became ineligible for such assistance prior to ~~the effective date of this act~~ *April 15, 1977,* because of such a reclassification or such a transfer occurring prior to ~~the effective date of this act~~ *April 15, 1977,* and who is not a member of the system on ~~the effective date of this act~~ *April 15, 1977,* shall be a member of the system on the first day of the payroll period coinciding with or following ~~the effective date of this act~~ *April 15, 1977*.

(6) Any employee of the state board of regents or of an educational institution under its management, other than an elected official, who is a member of the system and who becomes ineligible to be a member of the system because such employee's position is reclassified to a position under the Kansas civil service act which is eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto, or who becomes ineligible to be a member of the system because such employee transfers to a position under the Kansas civil service act which is eligible for such assistance, shall become eligible for such assistance in accordance with the provisions of K.S.A. 74-4925, and amendments thereto, unless such employee files a written election in the office of the retirement system, in the form and manner prescribed by the board of trustees thereof, to remain a member of the system prior to the first day of the first complete payroll period occurring after the effective date of such reclassification or transfer. Failure to file such written election shall be presumed to be an election not to remain a member of the system and to become eligible for assistance by the state board of regents in the purchase of a retirement annuity under K.S.A. 74-4925, and amendments thereto. Such election, whether to remain a member of the system or to become eligible for such assistance, shall be effective as of the effective date of such reclassification or transfer, and shall be irrevocable.

(7) Any elected official who at the time of becoming an elected official is already a member of the system by being or having been an employee of a participating employer shall continue as a member of the system.

Sec. 9. K.S.A. 2023 Supp. 74-4914 is hereby amended to read as follows: 74-4914.(1) The normal retirement date for a member of the system

shall be the first day of the month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ *(9)*, and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Such application shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ *(9)*, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer. Nothing herein shall prevent any person, member or retirant from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retirant shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b, and amendments thereto, and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ *(9)*, and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be em-

ployed with any participating employer within 60 days, or 180 days as provided in subsection ~~(10)~~ *(9)*, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

~~(5) Except as provided in subsections (7) and (10), on or after July 1, 2006, through December 31, 2017, for any retirant who is first employed or appointed in or to any position or office by a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, for any retirant who is employed by a third-party entity who contracts services with a participating employer other than a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation to fill a position covered under K.S.A. 72-2215(a), and amendments thereto, with such retirant, such participating employer shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment or appointment. If a retirant is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to $25,000 or more in any one calendar year between July 1, 2016, and January 1, 2018, by any participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, and, on or after April 1, 2009, by any third-party entity who contracts services to fill a position covered under K.S.A. 72-2215(a), and amendments thereto, with such retirant with a participating employer for which such retirant was employed or appointed during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer who employs such retirant whether by contract directly with the retirant or through an arrangement with a third-party entity shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any participating employer who contracts services with any such third-party entity to fill a position covered under K.S.A. 72-2215(a), and amendments thereto, shall include in such contract a provision or condition which requires the third-party entity to provide the participating employer with the necessary compensation paid information related to any such position filled by the third-party entity with a retirant to enable the participating employer to comply with provisions of this subsection relating to the payment of contributions and reporting requirements. The provisions and requirements provided for in amendments made in this act which relate to positions filled with a retirant or employment of a retirant by a~~

~~third-party entity shall not apply to any contract for services entered into prior to April 1, 2009, between a participating employer and third-party entity as described in this subsection. Any retirant employed by a participating employer or a third-party entity as provided in this subsection shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature. The provisions of this subsection shall not apply to any other elected officials. Commencing July 1, 2005, the provisions of this subsection shall not apply to retirants who either retired under the provisions of subsection (1), or, if they retired under the provisions of subsection (4), were retired more than 30 days prior to the effective date of this act and are licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or K.S.A. 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment. The provisions of the subsection shall expire on January 1, 2018.~~

~~(6)~~ For purposes of this section, any employee of a local governmental unit ~~which~~ *that* has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, ~~which~~ *that* occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

~~(7)~~*(6)* (a) ~~(i) Except as provided in K.S.A. 74-4937(3), (4), or (5), and amendments thereto, and the provisions of this subsection, commencing July 1, 2016, and ending January 1, 2018, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not receive any retirement benefit for any month in any calendar year in which the retirant receives compensation in an amount equal to $25,000 or more, pursuant to this~~

~~subsection. Any participating employer who hires a retirant covered by this subsection shall pay to the system the statutorily prescribed employer contribution rate for such retirant, without regard to whether the retirant is receiving benefits.~~

~~(ii)~~ Commencing January 1, 2018, for all retirements that occurred prior to such date, any retirant who is employed or appointed in or to any position by a participating employer, an independent contractor or a third-party entity who contracts services with a participating employer to fill a position, without any prearranged agreement with such participating employer and not prior to 60 days after such retirant's retirement date, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such position. If a retirant is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, the participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first ~~$25,000~~ *$40,000* of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~$25,000~~ *$40,000* in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system.

(b) The provisions of this subsection shall not apply, except as specifically provided in this subsection, to retirants who are:

(i) Licensed professional nurses or licensed practical nurses employed by the state of Kansas in an institution as defined in K.S.A. 76-12a01(b) or 38-2302(k), and amendments thereto, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation and the statutorily prescribed employee contribution during any such period of employment;

(ii) employed by a school district in a position as provided in K.S.A. 74-4937(3), ~~(4) or (5),~~ and amendments thereto;

(iii) certified law enforcement officers employed by the law enforcement training center. Such law enforcement officers shall receive their benefits notwithstanding this subsection. The law enforcement training center shall pay to the system the actuarially determined employer contribution and the statutorily prescribed employee contribution based on the retirant's compensation during any such period of employment;

(iv) members of the Kansas police and firemen's retirement system pursuant to K.S.A. 74-4951 et seq., and amendments thereto, members

of the retirement system for judges pursuant to K.S.A. 20-2601 et seq., and amendments thereto, or members of the state board of regents retirement plan pursuant to K.S.A. 74-4925 et seq., and amendments thereto;

(v) employed as substitute teachers without a contract or officers, employees or appointees of the legislature;

(vi) a poll worker hired to work an election day for a county election officer responsible for conducting all official elections held in the county;

(vii) employed by, or have accepted employment from, a participating employer prior to May 1, 2015. Any break in continuous employment by a retirant or move to a different position by a retirant during the effective period of this subsection shall be deemed new employment and shall subject the retirant to the provisions of this subsection. Commencing January 1, 2018, the participating employer of a retirant described in this ~~subsection (7)(b)(vii)~~ *subparagraph* who is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, shall pay to the system the statutorily prescribed employer contribution rate on the first ~~$25,000~~ *$40,000* of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~$25,000~~ *$40,000* in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system;

(viii) state or local elected officials. A retirant shall not be employed in an elected office within 30 days of such retirant's retirement, except that if a retirant is filling a vacant elected office, no waiting period shall be required; ~~or~~

(ix) employed by the Kansas academies of the United States department of defense STARBASE program*; or*

(x) employed as a licensed professional nurse, licensed practical nurse or in a direct support position of an affiliated employer organized under K.S.A. 19-4001, and amendments thereto, or defined under K.S.A. 39-1803, and amendments thereto.

(c) The participating employer shall enroll all retirants, including retirants under subsection ~~(7)(b)(i)~~ *(6)(b)(i)*, (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating

employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) ~~A participating employer may employ a retirant without regard to the compensation limitation in this subsection for a period of one calendar year or one school year, as the case may be, if the following requirements are met:~~

~~(i) The employer certifies to the board that the position being filled has been vacated due to an unexpected emergency or the employer has been unsuccessful in filling the position;~~

~~(ii) the employer pays to the system a 30% employer contribution based on the retirant's compensation during any such period of employment; and~~

~~(iii) the employer maintains documentation of its efforts to fill the position with a non-retirant and provides such documentation to the joint committee on pensions, investments and benefits upon request of the committee.~~

~~The provisions of this paragraph shall expire on January 1, 2018.~~

~~(e) An employer may submit a written assurance protocol to the system to extend the exception provided for in subsection (7)(d) by one-year increments for a total extension not to exceed three years. A written assurance protocol shall be submitted to the system for each one-year increment extension. If a school district submits a written assurance protocol, such written assurance protocol shall be signed by the superintendent and the board president of such school district. If a municipality, as defined in K.S.A. 75-1117, and amendments thereto, other than a school district, submits a written assurance protocol, such written assurance protocol shall be signed by the governing body or such governing body's designee for such municipality. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:~~

~~(i) No applications were submitted for the position;~~

~~(ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or~~

~~(iii) if applications were submitted, none of the applicants possessed the appropriate licensure, certification or other necessary credentials for the position.~~

~~The provisions of this paragraph shall expire on January 1, 2018.~~

~~(f)~~ Retirants who are independent contractors or employees of third-party entities who contract with a participating employer, shall not be subject to the compensation limitation or employer contribution requirements in this subsection or the requirements of ~~subsection (7)(c)~~

paragraph (c) regarding enrollment and reporting to the system, so long as all of the following apply:

(A) The contractual relationship was not created to allow the retirant to continue employment with the participating employer after retirement in a position similar to the one such retirant held prior to retirement;

(B) the activities performed by the independent contractor or third-party entity are not normally performed exclusively by employees of that participating employer; and

(C) the retirant meets the classification of independent contractor as provided in K.S.A. 44-768, and amendments thereto, or activities performed by the third-party entity that employs the retirant are performed on a limited-term basis and the third-party entity is not a participating employer in the system.

~~(g)~~*(e)* Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.

~~(8)~~*(7)* (a) Except as provided in ~~subsection (8)(b)~~ *paragraph (b)*, if determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement and prior to the end of the subsequent 60-day waiting period, or the 180-day waiting period under subsection ~~(10)~~ *(9)*, the monthly retirement benefit of such retirant shall be suspended during the period that begins on the month in which the retirant is re-employed and ends six months after the retirant's termination of such employment. The retirant shall repay to the retirement system all monthly retirement benefits paid to the retirant by the retirement system that the retirant received after such employment began. The participating employer which hired such retirant shall be required to pay to the system any fees, fines, penalties or any other cost imposed by the internal revenue service and indemnify the system for any cost incurred by the system to defend any action brought by the internal revenue service based on in-service distributions which are a result of any determined prearranged agreement and for any cost incurred by the system to collect any monthly retirement benefit required to be repaid by such retirant pursuant to this subsection.

(b) For members who retired on and after July 1, 2016, and on or before July 1, 2019, if determined by the retirement system that a retirant entered into a prearranged agreement for employment with a participating employer prior to such retirant's retirement date and the subsequent 60-day waiting period, or the 180-day waiting period under subsection ~~(10)~~ *(9)*, and upon being notified of the violation, the retirant terminated such employment, the provisions of ~~subsection~~ *paragraph* (a) shall not apply. If any retirant had benefits suspended prior to July 1, 2019, such benefits shall be reimbursed by the retirement system, if the retirant ter-

minated such prearranged employment in accordance with the provisions of this act. On and after July 1, 2019, the executive director may waive such penalties under this subsection if it is determined by the retirement system that any of the following conditions were satisfied:

(i) The retirant's total length of reemployment was less than 21 calendar days;

(ii) the retirant's total compensation during the total length of reemployment was less than 10% of the amount of such retirant's retirement benefit that would be suspended pursuant to this subsection; or

(iii) other facts and circumstances indicated that the retirant would not have been reemployed but for an error on the part of the participating employer or the retirement system in verifying the retirement status of such retirant and such retirant immediately terminated employment upon being notified of the violation.

(c) On or before the first day of each regular session of the legislature, beginning with the 2020 regular session, the executive director shall submit an annual report on the number of waivers granted pursuant to ~~subsection (8)(b)~~ *paragraph (b)* in the prior calendar year to the joint committee on pensions, investments and benefits, the house of representatives standing committee on financial institutions and pensions and the senate standing committee on financial institutions and insurance, or the successors of such committees.

~~(9)~~*(8)* For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

~~(10)~~*(9)* (a) Notwithstanding the provisions of subsection ~~(5) or (7)~~ *(6)* to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, or an independent contractor or a third-party entity who contracts service to fill such covered position shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such covered position. The participating employer of such retirant shall pay to the system the statutorily prescribed employer contribution rate on the first ~~$25,000~~ *$40,000* of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~$25,000~~ *$40,000* in a calendar year during any such period of employment. If a retirant is

employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year.

(b) Notwithstanding the provisions of subsection ~~(5) or (7)~~ *(6)* to the contrary, commencing January 1, 2018, any retirant who is retired more than 60 days, if such retirant's age on the date of retirement is 62 or older, or is retired more than 180 days, if such retirant's age on the date of retirement is less than 62, and who is subsequently hired without any prearranged agreement with the participating employer in a non-covered position, or an independent contractor or a third-party entity who contracts service to fill such non-covered position, shall not be subject to an earnings limitation that when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in such non-covered position. No employer contribution shall be paid to the system on compensation paid to a retirant hired in a non-covered position.

(c) The participating employer shall enroll all retirants, including retirants under subsection ~~(7)(b)(i)~~ *(6)(b)(i)*, (ii), (iii), (vii) and (viii), and report to the system when compensation is paid to a retirant as provided in this subsection. Such report shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is 62 or older, or within 180 days of such retirant's retirement in the case of a retirant whose age on the date of retirement is less than 62, and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. No retirant shall make contributions to the system or receive credit for service while employed under the provisions of this subsection.

(d) The provisions of this subsection relating to an earnings limitation and employer contributions shall not apply to any retirant described in subsection ~~(7)(b)~~ *(6)(b)* or to retirants who are independent contractors or employees of third-party entities who contract with a participating employer as described in subsection ~~(7)(f)~~ *(6)(d)*, except as specifically provided in this subsection.

(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right that is not subject to amendment or nullification by act of the legislature.

Sec. 10. K.S.A. 2023 Supp. 74-4921 is hereby amended to read as follows: 74-4921. (1) There is hereby created in the state treasury the

Kansas public employees retirement fund. All employee and employer contributions shall be deposited in the state treasury to be credited to the Kansas public employees retirement fund. The fund is a trust fund and shall be used solely for the exclusive purpose of providing benefits to members and member beneficiaries and defraying reasonable expenses of administering the fund. Investment income of the fund shall be added or credited to the fund as provided by law. All benefits payable under the system, refund of contributions and overpayments, purchases or investments under the law and expenses in connection with the system unless otherwise provided by law shall be paid from the fund. The director of accounts and reports is authorized to draw warrants on the state treasurer and against such fund upon the filing in the director's office of proper vouchers executed by the chairperson or the executive director of the board. As an alternative, payments from the fund may be made by credits to the accounts of recipients of payments in banks, savings and loan associations and credit unions. A payment shall be so made only upon the written authorization and direction of the recipient of payment and upon receipt of such authorization such payments shall be made in accordance therewith. Orders for payment of such claims may be contained on:

(a) A letter, memorandum, telegram, computer printout or similar writing; or

(b) any form of communication, other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(2) The board shall have the responsibility for the management of the fund and shall discharge the board's duties with respect to the fund solely in the interests of the members and beneficiaries of the system for the exclusive purpose of providing benefits to members and such member's beneficiaries and defraying reasonable expenses of administering the fund and shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this section.

(3) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide benefits to members and member beneficiaries, as provided by law and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if any investment objective is for economic development or social purposes or objectives.

(4) In investing and reinvesting moneys in the fund and in acquiring, retaining, managing and disposing of investments of the fund, the board

shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(5) Notwithstanding subsection (4):

(a) Total investments in common stock may be made in the amount of up to 60% of the total book value of the fund;

(b) the board may invest or reinvest moneys of the fund in alternative investments if the following conditions are satisfied:

(i) The total of the annual net commitment to alternative investments does not exceed 5% of the total market value of investment assets of the fund as measured from the end of the preceding calendar year;

(ii) if in addition to the system, there are at least two other qualified institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities act of 1933;

(iii) the system's share in any individual alternative investment is limited to an investment representing not more than 20% of any such individual alternative investment;

(iv) the system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of alternative investment;

(v) the alternative investment is consistent with the system's investment policies and objectives as provided in subsection (6);

(vi) the individual alternative investment does not exceed more than 2.5% of the total alternative investments made under this subsection. If the alternative investment is made pursuant to participation by the system in a multi-investor pool, the 2.5% limitation contained in this subsection is applied to the underlying individual assets of such pool and not to investment in the pool itself. The total of such alternative investments made pursuant to participation by the system in any one individual multi-investor pool shall not exceed more than 20% of the total of alternative investments made by the system pursuant to this subsection. Nothing in this subsection requires the board to liquidate or sell the system's holdings in any alternative investments made pursuant to participation by the system in any one individual multi-investor pool held by the system on the effective date of this act, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and be prudent under the standards contained in this section. The 20% limitation con-

tained in this subsection shall not have been violated if the total of such investment in any one individual multi-investor pool exceeds 20% of the total alternative investments of the fund as a result of market forces acting to increase the value of such a multi-investor pool relative to the rest of the system's alternative investments; however, the board shall not invest or reinvest any moneys of the fund in any such individual multi-investor pool until the value of such individual multi-investor pool is less than 20% of the total alternative investments of the fund;

(vii) the board has received and considered the investment manager's due diligence findings submitted to the board as required by subsection (6);

(viii) prior to the time the alternative investment is made, the system has in place procedures and systems to ensure that the investment is properly monitored and investment performance is accurately measured; and

(ix) the total of alternative investments does not exceed ~~15%~~ *25%* of the total investment assets of the fund. The ~~15%~~ *25%* limitation contained in this subsection shall not have been violated if the total of such alternative investments exceeds ~~15%~~ *25%* of the total investment assets of the fund, based on the fund total market value, as a result of market forces acting to increase the value of such alternative investments relative to the rest of the system's investments. However, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total value of such alternative investments is less than ~~15%~~ *25%* of the total investment assets of the fund based on the market value. If the total value of the alternative investments exceeds ~~15%~~ *25%* of the total investment assets of the fund, the board shall not be required to liquidate or sell the system's holdings in any alternative investment held by the system, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and is prudent under the standards contained in this section;

(c) for purposes of this section, "alternative investment" includes a broad group of investments that are not one of the traditional asset types of public equities, fixed income, cash or real estate. Alternative investments are generally made through limited partnership or similar structures, are not regularly traded on nationally recognized exchanges and thus are relatively illiquid, and exhibit lower correlations with more liquid asset types such as stocks and bonds. Alternative investments generally include, but are not limited to, private equity, private credit, hedge funds, infrastructure, commodities and other investments that have the characteristics described in this paragraph; and

(d) except as otherwise provided, the board may invest or reinvest moneys of the fund in real estate investments if the following conditions are satisfied:

(i) The system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of real estate investment;

(ii) the real estate investment is consistent with the system's investment policies and objectives as provided in subsection (6); and

(iii) the system has received and considered the investment manager's due diligence findings.

(6) (a) Subject to the objective set forth in subsection (3) and the standards set forth in subsections (4) and (5) the board shall formulate policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall include:

(i) Specific asset allocation standards and objectives;

(ii) establishment of criteria for evaluating the risk versus the potential return on a particular investment;

(iii) a requirement that all investment managers submit such manager's due diligence findings on each investment to the board or investment advisory committee for approval or rejection prior to making any alternative investment;

(iv) a requirement that all investment managers shall immediately report all instances of default on investments to the board and provide the board with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment; and

(v) establishment of criteria that would be used as a guideline for determining when no additional add-on investments or reinvestments would be made and when the investment would be liquidated.

(b) The board shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(7) The board may enter into contracts with one or more persons whom the board determines to be qualified, whereby the persons undertake to perform the functions specified in subsection (2) to the extent provided in the contract. Performance of functions under contract so entered into shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts and shall be based on specific contractual fee arrangements. The system shall not pay or reimburse any expenses of persons contracted with pursuant to this subsection, except that after approval of the board, the system may pay approved investment related expenses subject to provisions of appropriation acts. The board shall require that a person contracted with to obtain commercial insurance which provides for errors and omissions coverage for such person in an amount to be specified by the board, provided that such coverage shall be at least the greater of $500,000 or 1% of the funds entrusted to such person up to a maximum of $10,000,000. The

board shall require a person contracted with to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board, with corporate surety authorized to do business in this state. Such persons contracted with the board pursuant to this subsection and any persons contracted with such persons to perform the functions specified in subsection (2) shall be deemed to be agents of the board and the system in the performance of contractual obligations.

(8) (a) In the acquisition or disposition of securities, the board may rely on the written legal opinion of a reputable bond attorney or attorneys, the written opinion of the attorney of the investment counselor or managers, or the written opinion of the attorney general certifying the legality of the securities.

(b) 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.

(9) (a) Except as provided in subsection (7) and this subsection, the custody of money and securities of the fund shall remain in the custody of the state treasurer, except that the board may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. The services provided by the banks or trust companies shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts.

(b) The state treasurer and the board shall collect the principal and interest or other income of investments or the proceeds of sale of securities in the custody of the state treasurer and pay same when so collected into the fund.

(c) The principal and interest or other income or the proceeds of sale of securities as provided in this subsection shall be reported to the state treasurer and the board and credited to the fund.

(10) The board shall with the advice of the director of accounts and reports establish the requirements and procedure for reporting any and all activity relating to investment functions provided for in this act in order to prepare a record monthly of the investment income and changes made during the preceding month. The record will reflect a detailed summary of investment, reinvestment, purchase, sale and exchange transactions and such other information as the board may consider advisable to reflect a true accounting of the investment activity of the fund.

(11) The board shall provide for an examination of the investment program annually. The examination shall include an evaluation of current investment policies and practices and of specific investments of the

fund in relation to the objective set forth in subsection (3), the standard set forth in subsection (4) and other criteria as may be appropriate, and recommendations relating to the fund investment policies and practices and to specific investments of the fund as are considered necessary or desirable. The board shall include in its annual report to the governor as provided in K.S.A. 74-4907, and amendments thereto, a report or a summary thereof covering the investments of the fund.

(12) Any internal assessment or examination of alternative investments of the system performed by any person or entity employed or retained by the board which evaluates or monitors the performance of alternative investments shall be reported to the legislative post auditor so that such report may be reviewed in accordance with the annual financial-compliance audits conducted pursuant to K.S.A. 74-49,136, and amendments thereto.

Sec. 11. K.S.A. 74-4937 is hereby amended to read as follows: 74-4937. (1) The normal retirement date of a member of the system who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~*(9)*, and amendments thereto, and without any prearranged agreement for employment with any participating employer, and the attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with the completion of 35 years of credited service or at any age with the completion of 40 years of credited service, or commencing July 1, 1993, any alternative normal retirement date already prescribed by law or age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. Each member upon giving prior notice to the appointing authority and the retirement system may retire on the normal retirement date or the first day of any month thereafter. Such member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~*(9)*, and amendments thereto, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(2) Any member who is in school employment and who is subject to K.S.A. 74-4940, and amendments thereto, may retire before such member's normal retirement date on the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~*(9)*, and amendments thereto, and the attainment of

age 55 with the completion of 10 years of credited service, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe. The member's application for retirement shall contain a certification by the member that the member will not be employed with any participating employer within 60 days, or 180 days as provided in K.S.A. 74-4914~~(10)~~*(9)*, and amendments thereto, of retirement and the member has not entered into a prearranged agreement for employment with any participating employer.

(3) The provisions of K.S.A. 74-4914~~(5), (7) and (10)~~*(6) and (9)*, and amendments thereto,~~ which~~ *that* relate to an earnings limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month ~~for~~ *during* which such retirant serves in a position as described herein shall not apply to retirants who either retired under the provisions of K.S.A. 74-4914(l), and amendments thereto, related to normal retirement, or, if they retired under the provisions of K.S.A. 74-4914(4), and amendments thereto, related to early retirement, and are subsequently hired in a position that requires a license under K.S.A. 72-2157, and amendments thereto, or other provision of law. The provisions of this subsection shall only apply to retirants who retired prior to January 1, 2018. Except as otherwise provided, when a retirant is employed by the same school district or a different school district with which such retirant was employed during the final two years of such retirant's participation or employed as an independent contractor or by a third-party entity who contracts services with a school district to fill a position as described in this subsection, the participating employer of such retirant shall pay to the system the actuarially determined employer contribution based on the retirant's compensation during any such period of employment plus 8%. Commencing January 1, 2018, if a retirant is employed in a covered position, as defined in K.S.A. 74-49,202, and amendments thereto, the participating employer shall pay to the system the statutorily prescribed employer contribution rate on the first ~~$25,000~~ *$40,000* of such retirant's compensation in a calendar year and a 30% employer contribution on any compensation in excess of ~~$25,000~~ *$40,000* in a calendar year during any such period of employment. If a retirant is employed by more than one participating employer or performing duties in more than one position, contributions shall be made on compensation from all such employment for that calendar year. If a retirant is employed in a non-covered position, no employer contribution shall be paid to the system. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was

no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. ~~The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.~~ Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right~~, which~~ *that* is not subject to amendment or nullification by act of the legislature.

~~(4) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a special teacher position as defined in K.S.A. 72-3404, and amendments thereto, if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing authority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.~~

~~(b) A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system a~~

~~30% employer contribution based on the retirant's compensation during any such period of employment. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as special teachers, except as specifically provided in this subsection.~~

~~(c) Each school district that uses the provisions of this subsection to hire retirants shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the special teacher positions. Upon request of the joint committee on pensions, investments and benefits, an employer shall provide such documentation to the committee. If the committee finds that an employer has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.~~

~~(d) An employer may submit a written assurance protocol to the system to make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:~~

~~(i) No applications were submitted for the position;~~

~~(ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or~~

~~(iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.~~

~~(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.~~

~~(f) The provisions of this subsection shall expire on January 1, 2018.~~

~~(5) (a) On and after July 1, 2016, a school district may hire a retired licensed professional to fill a non-special teacher position if such retirant is hired not prior to 60 days after such retirant's retirement date without any prearrangement with such school district, and if such school district hires a retirant for a hard-to-fill position in the manner prescribed in this subsection. The participating employer shall enroll all retirants and report to the system when compensation is paid to a retirant as provided in this subsection. Such notice shall contain a certification by the appointing au-~~

~~thority of the participating employer that any hired retirant has not been employed by the participating employer within 60 days of such retirant's retirement and that there was no prearranged agreement for employment between the participating employer and the hired retirant. Upon request of the executive director of the system, the participating employer shall provide such information as may be needed by the executive director to carry out the provisions of this subsection.~~

~~(b) The state board of education shall annually certify the top five types of licensed positions that are hard to fill. A school district may hire a retirant to fill a hard-to-fill position for some or all of a school year and in subsequent school years if the employer is unable to permanently fill the position with an active member. A retirant first hired under the provisions of this subsection may be retained by an employer even if such retirant's type of position is no longer one of the five types of positions certified by the state board of education. A retirant hired under the provisions of this subsection may continue to receive such retirant's full retirement benefit for a period not to exceed three school years or 36 months, whichever is less, and shall not be subject to the provisions of K.S.A. 74-4914(5), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. Such retirant may be employed by such employer for some or all of a school year, and in subsequent school years if the employer is unable to permanently fill the position with active members, so long as the retirant's total term of employment with all employers under this subsection does not exceed 36 months or three school years, whichever is less. After such period, the retirant shall be subject to the provisions of K.S.A. 74-4914(7), and amendments thereto, which relate to a compensation limitation which when met or exceeded requires that the retirant not receive a retirement benefit for any month for which such retirant serves in a position as described herein. The participating employer of such retirant shall pay to the system a 30% employer contribution based on the retirant's compensation during any such period of employment. The provisions of this subsection shall not apply to retirants employed as substitute teachers without a contract. The provisions of K.S.A. 74-4914(5), and amendments thereto, shall be applicable to retirants employed as described in this subsection, except as specifically provided in this subsection.~~

~~(c) Each school district that uses the provisions of this subsection to hire retirants for hard-to-fill positions shall maintain documentation describing their recruiting efforts to obtain non-retirant employees to fill the hard-to-fill positions. Upon request of the joint committee on pensions, investments and benefits, a school district shall provide such documen-~~

~~tation to the committee. If the committee finds that a school district has not made sufficient efforts to hire a non-retirant for the position or if the committee finds evidence of prearrangement in violation of this section, the three-year exemption provided pursuant to this subsection may be revoked. The committee shall notify the executive director of the system that a retirant's exemption has been revoked within 30 days of making such a determination.~~

~~(d) An employer may submit a written assurance protocol to the system to make a one-time extension to the exception provided for in this subsection by one year. Such written assurance protocol shall be signed by the superintendent and the board president of the school district. Such written assurance protocol shall state that the position was advertised on multiple platforms for a minimum of 30 calendar days and that at least one of the following conditions occurred:~~

~~(i) No applications were submitted for the position;~~

~~(ii) if applications were submitted, none of the applicants met the reference screening criteria of the employer; or~~

~~(iii) if applications were submitted, none of the applicants possessed an appropriate teaching license for the state of Kansas or possessed the appropriate credentials to receive any type of teaching license from the state of Kansas.~~

~~(e) Nothing in this subsection shall be construed to create any right, or to authorize the creation of any right, which is not subject to amendment or nullification by act of the legislature.~~

~~(f) The provisions of this subsection shall expire on January 1, 2018.~~

~~(6)~~*(4)* The provisions of K.S.A. 74-4914~~(8)~~*(7)*, and amendments thereto, shall apply to retirants under the provisions of this section.

~~(7)~~*(5)* For the purposes of this section a prearranged agreement for employment may be determined by whether the facts and circumstances of the situation indicate that the employer and employee reasonably anticipated that further services would be performed after the employee's retirement.

Sec. 12. K.S.A. 74-4957 is hereby amended to read as follows: 74-4957. (1) The normal retirement date for a member of the system who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, shall be the first day of the month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days, and the attainment of age 55 and the completion of 20 years of credited service or the completion of 32 years of credited service regardless of the age of the member. Any member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) *Early retirement.* Any member who is appointed or employed prior to July 1, 1989, and who does not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) Notwithstanding the provisions of subsections (1) and (2) ~~of this section~~ and K.S.A. 74-4955a, 74-4957a, 74-4958a, 74-4960a, 74-4963a and 74-4964a, and amendments thereto, the normal retirement date for any member who was, up to the entry date of such member's employer, covered by a pension system under the provisions of K.S.A. 13-14a01 ~~to~~ *through* 13-14a14~~, inclusive,~~ or 14-10a01 ~~to~~ *through* 14-10a15~~, inclusive,~~ and amendments thereto, shall be the first day of the month coinciding with or following the attainment of age 50 and the completion of 25 years of credited service.

(4) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(5) If a retirant who retired on or after July 1, 1994, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to ~~$25,000~~ *$40,000* or more in any one such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any retirant employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act.

Sec. 13. K.S.A. 74-4957a is hereby amended to read as follows: 74-4957a. (1) The normal retirement date for a member of the system who is appointed or employed on or after July 1, 1989, or who makes an election pursuant to K.S.A. 74-4955a, and amendments thereto, to be covered by the provisions of this act shall be the first day of the month coinciding with or following termination of employment not followed by employment

with any participating employer within 30 days and the attainment of age 55 and the completion of 20 years of credited service, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service. Any such member may retire on such member's normal retirement date or on the first day of any month thereafter.

(2) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment not followed by employment with any participating employer within 30 days and the attainment of age 50 and the completion of 20 years of credited service.

(3) In no event shall a member be eligible to retire until such member has been a contributing member of the system for 12 months of participating service, and shall have given such member's employer prior notice of retirement.

(4) If a retirant who retired on or after July 1, 1996, is employed, elected or appointed in or to any position or office for which compensation for service is paid in an amount equal to ~~$25,000~~ *$40,000* or more in any one such calendar year, by the same state agency or the same police or fire department of any county, city, township or special district or the same sheriff's office of a county during the final two years of such retirant's participation, such retirant shall not receive any retirement benefit for any month for which such retirant serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retirant is equal to or exceeds any limitation provided by this section. Any retirant employed by a participating employer in the Kansas police and firemen's retirement system shall not make contributions nor receive additional credit under such system for such service except as provided by this section. Upon request of the executive director of the system, the secretary of revenue shall provide such information as may be needed by the executive director to carry out the provisions of this act.

(5) The provisions of this section shall be effective on and after July 1, 1989, and shall apply only to members who were appointed or employed prior to July 1, 1989, and who made an election pursuant to K.S.A. 74-4955a, and amendments thereto; and persons appointed or employed on or after July 1, 1989.

Sec. 14. K.S.A. 74-4989 is hereby amended to read as follows: 74-4989. (1) (a) Except as provided in *paragraph* (b), pursuant to the provisions of K.S.A. 74-49,128, and amendments thereto, upon the death of a retirant, the board of trustees of the Kansas public employees retirement system shall pay a lump-sum death benefit to: *(i)* The retirant's beneficiary ~~which~~ *that* shall not exceed ~~$4,000~~ *$6,000* for such retirant, less any amount payable for funeral benefits under the applicable provisions of

any local police or fire pension plan, as defined by ~~subsection (c) of~~ K.S.A. 12-5001*(c)*, and amendments thereto; or ~~to~~ *(ii)* a funeral establishment as directed by the retirant and filed in the office of the system prior to such retirant's death.

(b) Notwithstanding the provisions of K.S.A. 74-4923, and amendments thereto, any amounts owed the system shall be deducted from such lump-sum death benefit.

(2) As used in this section, "retirant" means any person who is a member or special member of the Kansas public employees retirement system, the Kansas police and firemen's retirement system, the state school retirement system or the retirement system for judges and who has retired.

Sec. 15. K.S.A. 74-49,315 is hereby amended to read as follows: 74-49,315. A member's beneficiary shall be determined as provided in the pre-2015 plan. Upon filing a written application with the board after the death of a member receiving a benefit under ~~subsections (a) or (b) of~~ K.S.A. 74-49,313*(a) or (b)*, and amendments thereto, the member's beneficiary is entitled to ~~a $4,000~~ *the lump-sum* death benefit as provided in K.S.A. 74-4989, and amendments thereto.

Sec. 16. K.S.A. 74-4937, 74-4957, 74-4957a, 74-4989 and 74-49,315 and K.S.A. 2023 Supp. 74-4911, 74-4914 and 74-4921 are hereby repealed.

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

Allowed to become law without signature.

(See Messages from the Governor)

CHAPTER 66

HOUSE BILL No. 2105*

AN ACT concerning postsecondary educational institutions; prohibiting such institutions from certain actions concerning diversity, equity or inclusion, exceptions; providing for civil remedies and penalties; submitting a report to the legislature; posting information on the state board of regents website.

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

Section 1. (a) No postsecondary educational institution shall condition admission or educational aid to an applicant for admission, hiring an applicant for employment or hiring, reappointing or promoting a faculty member, on the applicant's or faculty member's pledging allegiance to or making a statement of personal support for or opposition to any political ideology or movement, including a pledge or statement regarding diversity, equity or inclusion, or to request or require any such pledge or statement from an applicant or faculty member.

(b) If a postsecondary educational institution receives a pledge or statement describing a commitment to any particular political ideology or movement, including a pledge or statement regarding diversity, equity or inclusion, such institution may not grant or deny admission or educational aid to a student, hire an applicant for employment or hire, reappoint or promote a faculty member, on the basis of the viewpoints expressed in the pledge or statement.

(c) Nothing in this section shall:

(1) Prohibit such institution from requiring a student, faculty member or employee to comply with federal or state law, including antidiscrimination laws, or from taking action against a student, faculty member or employee for violations of federal or state law;

(2) be construed to limit or restrict the academic freedom of faculty or to prevent faculty members from teaching, researching or writing publications about diversity, equity, inclusion or other topics; or

(3) prohibit such institution from considering, in good faith, a faculty member's scholarship, teaching or subject-matter expertise in such faculty member's academic field.

(d) Each institution shall post and make publicly available on such institution's website all training materials used for students, faculty and staff on all matters of nondiscrimination, diversity, equity, inclusion, race, ethnicity, sex or bias and all of such institution's policies and guidance on such matters.

(e) Any person who believes their rights were violated through a violation of this section may file a complaint with the state board of regents. The board shall investigate the complaint to determine whether a violation of this section has occurred. Such investigation shall be complete

within 45 days after the date of the receipt of the complaint. If the board determines, after investigation, that a postsecondary educational institution has violated this section, the institution shall remedy the violation within 90 days after the date of such determination. If the institution fails to remedy the violation within 90 days, the board shall report the matter to the attorney general, who may file an action in district court against the institution for declaratory relief or enjoin the violation.

(f) If the board determines, after investigation, that the institution has not violated this section, the person who believes their rights were violated may file a complaint with the attorney general, who shall investigate the complaint to determine whether a violation of this section has occurred. Such investigation shall be complete within 45 days after the date of the receipt of the complaint. If the attorney general determines, after an investigation, that a postsecondary educational institution has violated this section, the institution shall remedy the violation within 90 days after the date of such determination. If the institution fails to remedy the violation within 90 days, the attorney general may file an action in district court against the institution for declaratory relief or to enjoin the violation.

(g) An action under this section shall be filed in the district court of the county where the postsecondary educational institution's primary campus is located. The district court of any county shall have jurisdiction to enforce any order or finding of violation. If the district court finds that a postsecondary educational institution has violated this section, the district court shall enter an order:

(1) Requiring the institution to comply with this section;

(2) imposing a civil penalty in an amount of not more than $10,000 for each violation; and

(3) requiring the institution to pay the attorney general's expenses and costs incurred in enforcing the violation, if the court finds that the institution's violation was not made in good faith and was made without a reasonable basis in fact or law.

(h) Notwithstanding the provisions of K.S.A. 20-350, and amendments thereto, any civil penalty assessed by the district court shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and deposited in the state treasury and credited to the state board of regents state scholarship program account of the state general fund.

(i) On or before January 12, 2026, and the first day of each regular session of the legislature thereafter, the state board of regents shall submit a report to the legislature on the following matters that occurred in the previous fiscal year: Number of complaints filed with the state board of regents; outcomes of the board's investigations; number of complaints filed with the attorney general; outcomes of the attorney general's investi-

gations; number of cases filed in district court; outcome of the cases filed; number and dollar amounts of civil penalties; enforcement expenses and costs of the attorney general; and any other information concerning violations of this section deemed pertinent by the board.

(j) Within 10 days after a determination by the board on whether a violation of this section has occurred, the board shall post on the board's website the findings and outcomes of the investigation and determination on each complaint filed. Such post shall not contain any personal identifiable information concerning the complainant.

(k) If a postsecondary educational institution, or any of such institution's agent acting within such agent's official capacity, are found by a court or the institution to have violated this section, the institution may take disciplinary action against the responsible agents in accordance with the institution's policies and procedures.

(l) As used in this section, "postsecondary educational institution" means any public university, municipal university, community college and technical college and includes any entity resulting from the consolidation or affiliation of any two or more of such postsecondary educational institutions.

(m) If any provision of this act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared to be severable.

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

Allowed to become law without signature.

(See Messages from the Governor)