



# Kansas Register

Ron Thornburgh, Secretary of State

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## State of Kansas

## Department of Commerce

## Request for Comments

The Kansas Department of Commerce is requesting comments to the draft State Senior Employment Services Coordination Plan. This plan will be submitted to the U.S. Department of Labor to become effective July 1, 2005 through June 30, 2006. The plan documents the vision and goals for the Kansas Senior Employment Services Coordination.

The draft plan is available for review via the Internet at <http://kdoch.state.ks.us/KDOCHdocs/BD/SESCPlan2005draftPC.doc>.

To request a copy of the plan, contact Donna L. Allen, Kansas Department of Commerce, Suite 100, Curtis State Office Building, 1000 S.W. Jackson, Topeka, 66612, (785) 296-1865, TTY (785) 296-3487, or e-mail at [dallen@kansascommerce.com](mailto:dallen@kansascommerce.com). Copies of the draft plan may be requested in large print.

Comments must be received by 5 p.m. Monday, May 23. Comments may be submitted by any of the following methods:

- E-mail: Comments may be submitted by e-mail to [dallen@kansascommerce.com](mailto:dallen@kansascommerce.com) (enter "SCSEP Plan Comments" in the subject line of the message).
- Fax: Comments of five pages or less may be submitted by fax to (785) 291-3512 (please note that this is not a toll-free number).
- Postal mail: Comments may be submitted by postal mail to Donna L. Allen at the address above.

Howard R. Fricke  
Secretary of Commerce

Doc. No. 031986

## State of Kansas

## Department of Transportation

## Request for Comments

The Kansas Department of Transportation requests comments on the amendment of the Statewide Transportation Improvement Program (STIP) FY 2005-2007 by adding the following projects:

**Project KA-0197-01**, Preliminary Engineering for a Bridge Replacement, K-152 over the Marias Des Cygnes River 7.9 miles east of the K-7 Junction, Linn County

**Project KA-0212-01**, Interpretive Panels and Directional Information, Safety Rest Area along US-69, Linn County

**Project KA-0213-01**, Development of Four Informational Kansas Scenic Byways Booklets

**Project KA-0214-01**, Rehabilitate Historic Building, Strong City Visitor and Community Center, Chase County

The amendment of the STIP requires a 30-day public comment period. To receive more information on any of these projects or to make comments on the STIP amendment, contact the Kansas Department of Transportation, Bureau of Program and Project Management, 2nd Floor Tower, Eisenhower State Office Building, 700 S.W. Harrison, Topeka, 66603-3754, (785) 296-3526, fax (785) 368-6664.

This information is available in alternative accessible formats. To obtain an alternative format, contact the KDOT Bureau of Transportation Information, (785) 296-3585 (Voice/TTY).

The comment period regarding the STIP amendment will conclude June 20.

Deb Miller  
Secretary of Transportation

Doc. No. 031979

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**USDA—Natural Resources  
Conservation Service**

**Notice of Information Forum**

The U.S. Department of Agriculture, Natural Resources Conservation Service in Kansas will conduct a technical service provider (TSP) information forum from 1:30 to 3:30 p.m. Monday, June 20, at the NRCS Conference Center, 747 S. Duvall, Salina, to listen to the concerns of TSPs. The forum will begin with a brief overview of the TSP process.

TSPs are invited to provide oral or written comments. Participants may speak up to five minutes or may provide written testimony. Persons unable to attend the forum may submit written testimony to John F. Ourada, State Conservation Engineer, at the address below by the close of business Thursday, June 30.

For more information, contact John F. Ourada, State Conservation Engineer, USDA—NRCS, 760 S. Broadway, Salina, 67401-4604, (785) 823-4534, fax (785)823-4540, or email: john.ourada@ks.usda.gov.

Mary D. Shaffer  
Public Affairs Specialist

Doc. No. 031994

**State of Kansas**

**Department of Administration  
Division of Facilities Management**

**Notice of Commencement of Negotiations for  
On-Call Hazardous Abatement Engineering Services**

Notice is hereby given of the commencement of negotiations for "on-call" hazardous abatement engineering services for small projects for the Kansas Department of Administration, Division of Facilities Management, Topeka. Contracts will be for one year, renewable for two additional one-year periods. Two firms will be selected.

For more information concerning the scope of services, contact Dan Balch, (785) 296-2202.

To be considered, a letter of interest, an SF330 Part I, information regarding similar projects, and an SF330 Part II for each firm and consultant should be provided in one bound proposal. Also required are four bound copies of the same information and one CD with one PDF file of the same information. Proposals should be concise and follow the 2005 State Building Advisory Commission guidelines, which have previously been distributed to firms. If copies of the guidelines are needed, contact Phyllis Fast, Division of Facilities Management, Room 600, Landon State Office Building, 915 S.W. Jackson, Topeka, 66612, (785) 296-5796. Submittals should be received by Phyllis Fast before noon June 3.

D. Keith Meyers  
Director, Division of  
Facilities Management

Doc. No. 031972

**State of Kansas**

**University of Kansas**

**Notice to Bidders**

Sealed bids for the item listed below will be received by the University of Kansas Purchasing Office, Lawrence, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 864-3416 or fax (785) 864-3454 for additional information:

**Friday, June 10, 2005  
RFQ 39976**

Mobile Search and Rescue Trainer

Barry Swanson  
Director, Business Services  
and Purchasing

Doc. No. 031980

**State of Kansas**

**University of Kansas**

**Notice to Bidders**

Proposals for the items listed below will be received by E & I Cooperative Service, Inc., Hauppauge, New York, at the time and date indicated in the bid documents and then will be publicly opened. Interested bidders may call (631) 630-8236 or fax (631) 273-3370 for additional information:

**Tuesday, June 7, 2005  
RFP 682355**

Budget Furniture

Barry Swanson  
Director, Business Services  
and Purchasing

Doc. No. 031981

**State of Kansas**

**Kansas Water Authority**

**Notice of Meetings**

The Kansas Water Authority will meet Thursday and Friday, June 2-3, at the Capital Plaza Hotel, Sunflower Ballroom, 1717 S.W. Topeka Blvd., Topeka. Authority members will convene as the Committee of the Whole at 9 a.m. Thursday and will meet as the full Authority at 9 a.m. Friday.

For an agenda or further information about the meeting, see the Kansas Water Office Web site, www.kwo.org (the agenda and meeting information are posted under the hot button, "KWA Mailing Materials," on the home page). For specific questions, call the Kansas Water Office at (888) KAN-WATER (526-9283) or (785) 296-3185.

Steve Irsik  
Chairman

Doc. No. 031984

State of Kansas

**Kansas State University**

**Notice to Bidders**

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (785) 532-6214 or fax (785) 532-5577 for additional information:

**Wednesday, June 1, 2005**

**#5135**

**Thermal Manikin With Sweating  
Skin and Moving Joints**

Carla K. Bishop  
Director of Purchasing

Doc. No. 031969

State of Kansas

**Department of Health  
and Environment**

**Notice Concerning Kansas  
Water Pollution Control Permits**

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the state of Kansas for the class of discharges described below.

The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the EPA, and when issued will result in a State Water Pollution Control Permit and National Pollutant Discharge Elimination System Authorization subject to certain conditions.

All Kansas Department of Health and Environment district office addresses and telephone numbers are listed below.

**Public Notice No. KS-AG-05-127/139**

**Pending Permits for Confined Feeding Facilities**

Name and Address of Applicant	Legal Description	Receiving Water
Harder & Son Tim Harder 6893 N.E. 75th St. El Dorado, KS 67042	SE/4 of Section 25, T24S, R06E, Butler County	Walnut River Basin

Kansas Permit No. A-WABU-S015

This is a renewal permit for an existing facility for 1,452 head (580.8 animal units) of swine greater than 55 pounds and 660 head (66 animal units) of swine less than 55 pounds, for a total of 2,112 head (646.8 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Stainbrook Farm Dan Stainbrook 19707 Lamb Road La Cygne, KS 66040	NW/4 of Section 15, T20S, R23E, Linn County	Marais des Cygnes River Basin

Kansas Permit No. A-MCLN-S018

This is a renewal permit for an existing facility for 560 head (224 animal units) of swine weighing more than 55 pounds and 180 head (18 animal units) of swine weighing 55 pounds or less, for a total of 242 animal units of swine

Name and Address of Applicant	Legal Description	Receiving Water
David Klausmeyer 8135 S. 119th West Clearwater, KS 67026	NE/4 of Section 12, T29S, R02W, Sedgwick County	Lower Arkansas River Basin

Kansas Permit No. A-ARSG-M026

This is a renewal permit for an existing facility for 80 head (112 animal units) of mature dairy cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Gardiner Angus Ranch Henry C. Gardiner HC1 Box 290 Ashland, KS 67831	NE/4 of Section 10, NW/4 of Section 11, T34S, R24W, Clark County	Cimarron River Basin

Kansas Permit No. A-CICA-B003

This is a new permit for an existing facility for 999 head (999 animal units) of beef cattle greater than 700 pounds, used on a seasonal basis for the breeding and herd management at a ranching operation.

Name and Address of Applicant	Legal Description	Receiving Water
John Robson 618 1300 Ave. Abilene, KS 67410	W/2 of Section 01, T15S, R01E, Dickinson County	Smoky Hill River Basin

Kansas Permit No. A-SHDK-B014

This is a renewal permit for an existing facility for 280 head (280 animal units) of cattle greater than 700 pounds and 320 head (160 animal units) of cattle less than 700 pounds, for a total of 600 head (440 animal units) of cattle.

Name and Address of Applicant	Legal Description	Receiving Water
John Robson 618 1300 Ave. Abilene, KS 67410	SW/4 of Section 12, T15S, R01E, Dickinson County	Smoky Hill River Basin

Kansas Permit No. A-SHDK-B002

This is a renewal permit for an existing facility for 260 head (260 animal units) of cattle greater than 700 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
J & N Ranch, LLC Joe Hoagland 25332 Wolcott Road Leavenworth, KS 66048	NW/4 of Section 33, T09S, R23E, Leavenworth County	Missouri River Basin

Kansas Permit No. A-MOLV-B001

This is a renewal permit with reduction in animal units and change of owner for an existing facility for 40 head (40 animal units) of cattle greater than 700 pounds, 500 head (250 animal units) of cattle 700 pounds or less and 3 head (6 animal units) of horses, for a total of 296 animal units.

Name and Address of Applicant	Legal Description	Receiving Water
Max Menefee 12241 W. 343rd Paola, KS 66071	NW/4 of Section 11, T18S, R24E, Miami County	Marais des Cygnes River Basin

Kansas Permit No. A-MCMI-S032

This is a new permit to reactivate an existing inactive facility for 300 head (120 animal units) of swine greater than 55 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Ed Wait 15160 S.W. 10th Benton, KS 67017	SE/4 of Section 05, T26S, R03E, Butler County	Walnut River Basin

Kansas Permit No. A-WABU-S041  
This is a new permit consisting of a structural modification to the facility. The facility has the same number of swine as the original application, 1,150 head (460 animal units) of swine greater than 55 pounds and 200 head (20 animal units) of swine less than 55 pounds, for a total of 1,350 head (480 animal units) of swine. Two hoop buildings have been added to the facility, for a total of four buildings.

Name and Address of Applicant	Legal Description	Receiving Water
Promax Dwight Busenitz 6698 N.W. Indianola Road Whitewater, KS 67154	NW/4 of Section 35, T24S, R03E, Butler County	Walnut River Basin

Kansas Permit No. A-WABU-S009  
This is a permit renewal and modification to reflect the current status of the existing facility for 2,180 head (602 animal units) of nursery swine and sows.

Name and Address of Applicant	Legal Description	Receiving Water
Prairie Pork, LLC - Wasinger 2 Eric Hassell P.O. Box B Leoti, KS 67861	SW/4 of Section 28, T20S, R32W, Scott County	Upper Arkansas River Basin

Kansas Permit No. A-UASC-H007 Federal Permit No. KS0097993  
This is a permit for the south half of an existing facility being split into two facilities due to the sale of this (south) half. The maximum permitted capacity is 10,800 head (4,320 animal units) of finishing swine. The resulting two separately permitted facilities will not share buildings and will not co-mingle any waste, whether in pits, lagoons, ponds or on land application areas. No new construction is being proposed.

Name and Address of Applicant	Legal Description	Receiving Water
Maple Creek Farms, LLC Wasinger 1 James C. Hicks P.O. Box 1598 Leoti, KS 67861	NW/4 of Section 28, T20S, R32W, Scott County	Upper Arkansas River Basin

Kansas Permit No. A-UASC-H006 Federal Permit No. KS0094862  
This is a permit for the north half of an existing facility being split into two facilities due to the sale of the south half. The maximum permitted capacity is being reduced from 21,600 head (8,640 animal units) to 10,800 head (4,320 animal units) of finishing swine. The resulting two separately permitted facilities will not share buildings and will not co-mingle any waste, whether in pits, lagoons, ponds or on land application areas. No new construction is being proposed.

Name and Address of Applicant	Legal Description	Receiving Water
Hahn's Inc. Route 1, Box 34A Hanston, KS 67849	NE/4 of Section 07, T22S, R21W, Hodgeman County	Upper Arkansas River Basin

Kansas Permit No. A-UAHG-C011 Federal Permit No. KS0097926  
This is a new permit and modification to an existing facility for 1,500 head (1,500 animal units) of beef cattle.

**Public Notice No. KS-ND-05-013**

Name and Address of Applicant	Legal Location	Type of Discharge
Veterans of Foreign Wars - Post 5901 P.O. Box 683 Ottawa, KS 66067	SW¼, NW¼, S24, T16S, R19E, Franklin County	Nonoverflowing

Facility Location: 3599 N. Highway 59, Ottawa, KS 66067

Kansas Permit No. C-MC31-NO03

Facility Description: The proposed action is to reissue a permit for operation of an existing wastewater treatment facility. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified wastewater treatment plant operator to achieve compliance with this permit. Discharge of wastewater from this treatment facility to surface waters of the state of Kansas is prohibited by this permit.

**Public Notice No. KS-PT-05-0089**

Name and Address of Applicant	Receiving Facility	Type of Discharge
EnerSys Inc. P.O. Box 14145 Reading, PA 19612	Hays MWWTP	Processed Wastewater

Kansas Permit No. P-SH16-0001  
Facility Location: One EnerSys Road, Hays, KS 67601  
Facility Description: The proposed action is to reissue an existing pre-treatment permit for this facility. This facility manufactures sealed lead-acid batteries for computers and emergency lighting equipment. Pollutant limits are calculated based on the actual production of lead processed. Eligible allowances include plate soak, battery wash, direct chill lead casting, mold release formulation, laundry and miscellaneous waste streams. The proposed permit includes limits for copper, lead and pH. The monitoring of flow also will be required. The permit limits are pursuant to state and federal pre-treatment requirements.

**Public Notice No. KS-EG-05-004/008**

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the use of the well(s) described below within the state of Kansas.

Name and Address of Applicant	Well and Permit Number	Location
ConocoPhillips 1234 Phillips Building Bartlesville, OK 74004	#SWD-1 KS-01-095-001	NW NW NW of Section 15, Township 30 South, Range 7 West, more particularly described as a point 5,126 feet from south line and 4,866 feet from east line of the SE corner of said section, Kingman County

Facility Description: The proposed action is to reissue an existing permit for a deep disposal well. The station is an underground storage facility for hydrocarbon products. Injection into the well will be made into the Arbuckle formation and granite wash (Pre-Cambrian) through an open hole from a depth of 4,672 feet to 5,492 feet. Disposal will be by means of gravity flow. Wellhead pump pressure will not be allowed. The maximum rate of injection will be 672,000 gallons per day. Fluids to be injected are described as nonhazardous liquid waste consisting of waste brines from the underground hydrocarbon storage operation. All construction, monitoring and operation of these wells will meet the requirements that apply to Class I injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

Facility Description: The proposed action is to reissue an existing permit for a deep disposal well. The station is an underground storage facility for hydrocarbon products. Injection into the well will be made into the Arbuckle formation and granite wash (Pre-Cambrian) through an open hole from a depth of 4,672 feet to 5,492 feet. Disposal will be by means of gravity flow. Wellhead pump pressure will not be allowed. The maximum rate of injection will be 672,000 gallons per day. Fluids to be injected are described as nonhazardous liquid waste consisting of waste brines from the underground hydrocarbon storage operation. All construction, monitoring and operation of these wells will meet the requirements that apply to Class I injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

Name and Address of Applicant	Well and Permit Number	Location
Koch Nitrogen Company P.O. Box 1337 Dodge City, KS 67801-1337	#2 KS-01-057-001	SW NE SW of Section 22, Township 26 South, Range 24 West, more particularly described as a point 1,766.6 feet from south line and 3,876.9 feet from east line of the SE corner of said section, Ford County

Facility Description: The proposed action is to reissue an existing permit for a deep disposal well. The station is an underground storage facility for hydrocarbon products. Injection into the well will be made into the Arbuckle formation and granite wash (Pre-Cambrian) through an open hole from a depth of 4,672 feet to 5,492 feet. Disposal will be by means of gravity flow. Wellhead pump pressure will not be allowed. The maximum rate of injection will be 672,000 gallons per day. Fluids to be injected are described as nonhazardous liquid waste consisting of waste brines from the underground hydrocarbon storage operation. All construction, monitoring and operation of these wells will meet the requirements that apply to Class I injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

(continued)

#3  
KS-01-057-002

NE SE SE of Section 15, Township 26 South, Range 24 West, more particularly described as a point approximately 800 feet from south line and 400 feet from east line of the SE corner of said section, Ford County

Facility Description: The proposed action is to reissue permits for two deep disposal wells. This facility is a nitrogen fertilizer plant. Injection into both wells will be made into the Arbuckle formation from a depth of approximately 5,829 feet to 6,576 feet. Disposal will be by means of gravity flow. Wellhead pump pressure will not be allowed. The maximum rate of injection will be 846,600 gallons per day for each well. Fluids to be injected are described as cooling tower blowdown, demineralized water train regeneration water, recovered groundwater, laboratory wastewater, stormwater, and water from plant condensate and floor drains. All construction, monitoring and operation of these wells will meet the requirements that apply to Class I injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

**Name and Address of Applicant**

Morton International, Inc.  
P.O. Box 1547  
Hutchinson, KS 67504-1547

**Well and Permit Number**

#D-1  
KS-01-155-004

**Location**

NE NE SE of Section 22, Township 23 South, Range 6 West, more particularly described as a point 2008 feet from south line and 88 feet from east line of the SE corner of said section, Reno County

Facility Description: The proposed action is to reissue an existing permit for a deep disposal well. This facility is a salt processing plant. Injection into the well will be made into the Arbuckle formation through open hole from a depth of 4,156 feet to 4,405 feet. Disposal will be by means of gravity flow. Wellhead pump pressure will not be allowed. The maximum rate of injection will be 240,000 gallons per day. Fluids to be injected are described as nonhazardous liquid waste consisting of near-saturated mineralized waste brines. All construction, monitoring and operation of these wells will meet the requirements that apply to Class I injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

**Name and Address of Applicant**

National Cooperative Refinery Association  
P.O. Box 1404  
McPherson, KS 67460

**Well and Permit Number**

#1  
KS-01-113-002

**Location**

NW NE SE of Section 29, Township 19 South, Range 4 West, more particularly described as a point 2,230 feet from south line and 1,245 feet from east line of the SE corner of said section, McPherson County

Facility Description: The proposed action is to reissue an existing permit for a deep disposal well. This station is an underground storage for hydrocarbon products. Injection into the well will be made into the Arbuckle formation through an open hole from a depth of 3,938 feet to 4,225 feet. Disposal will be by means of gravity flow. Wellhead pump pressure will not be allowed. The maximum rate of injection will be 540,000 gallons per day. Fluids to be injected are described as nonhazardous liquid waste consisting of waste brines from the hydrocarbon storage operation. All construction, monitoring and operation of these wells will meet the requirements that apply to Class I injection wells under the Kansas Underground Injection Control Regulations, K.A.R. 28-46-1 through 28-46-44.

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments or objections considered in the decision making process. Comments or objections should be submitted to the at-

tention of April Romero for agricultural permits or applications, or to the permit clerk for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft permit or application notice postmarked or received on or before June 18 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-05-127/139, KS-ND-05-013, KS-PS-05-009, KS-EG-004/008) and name of applicant/application as listed when preparing comments.

If no objections are received during the public notice period regarding any proposed permit, the Secretary of Health and Environment will issue the final determination regarding issuance or denial of the proposed permit. If response to this notice indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

For agricultural permits and applications, a copy of the permit application, supporting documentation and a KDHE-developed fact sheet, if appropriate, is available for review at the appropriate district office:

Northwest District Office, 2301 E. 13th, Hays, 67601-2651,  
(785) 625-5664

North Central District Office, 2501 Market Place, Salina,  
67401-7699, (785) 827-9639

Northeast District Office, 800 W. 24th, Lawrence, 66046-4417,  
(785) 842-4600

Southwest District Office, 302 W. McArtor Road, Dodge City,  
67801-6098, (620) 225-0596

South Central District Office, 130 S. Market, 6th Floor,  
Wichita, 67202-3802, (316) 337-6020

Southeast District Office, 1500 W. 7th, Chanute, 66720,  
(620) 431-2390.

Application information and components of plans and specifications for all new facilities and for expansions of existing swine facilities may be reviewed on the Internet at <http://www.kdhe.state.ks.us/feedlots>.

For all other proposed permits, the draft permit(s), including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received and other information, are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water.

Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031982

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. BOC Gases has applied for a Class I operating permit renewal in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

BOC Gases, 575 Mountain Ave., Murray Hill, New Jersey, owns and operates an industrial manufacturing facility of purified gas or liquid helium located at West Highway 4, SW $\frac{1}{4}$ , S26, T17S, R16W, Otis, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit may be reviewed at the Northwest District Office, 2301 E. 13th, Hays. To obtain or review the proposed permit and supporting documentation, contact Ann L. Spitz, (785) 291-3271, at the KDHE central office; and to review the proposed permit only, contact Richard Robinson, (785) 625-5663, at the KDHE Northwest District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Ann L. Spitz, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 20.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 20 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was im-

practicable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031976

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Wamego Municipal Power Plant has applied for a Class I operating permit renewal in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Wamego Municipal Power Plant, 430 Lincoln Ave., P.O. Box 86, Wamego, owns and operates a municipal power plant located at 1001 Third St., Wamego, Pottawatomie County.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit may be reviewed at the KDHE Northeast District Office, 800 W. 24th, Lawrence. To obtain or review the proposed permit and supporting documentation, contact Xiao Wu, (785) 296-1615, at the KDHE central office; and to review the proposed permit only, contact Pat Simpson, (785) 842-4600, at the KDHE Northeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Xiao Wu, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 20.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 20 in order for the Secretary of Health and Environment to consider the request.

*(continued)*

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031977

#### State of Kansas

### Department of Health and Environment

#### Request for Comments

The Kansas Department of Health and Environment is announcing its intent to issue a revised air quality construction permit to National Cooperative Refinery Association (NCRA), 1391 Iron Horse Road, McPherson, for installation of a proposed clean fuels project. NCRA owns and operates a refinery located south of the city of McPherson, Kansas. The proposed project will include modification of equipment in its vacuum unit, delayed coking unit (coker), amine unit, fluid catalytic cracking unit (FCCU), platformer, several storage tanks, and in two of its hydrotreating units (diesel and distillate). New equipment installed will include a sour water stripper, hydrogen unit, sulfur recovery unit uncracking unit, and several storage tanks. The modifications will allow an increase in the crude feed to the refinery, and it will enable NCRA to comply with the Tier 2 gasoline standard (30 ppmw sulfur) and ultra low-sulfur diesel standard (15 ppmw sulfur) by June 1, 2006.

The original permit was issued January 6, 2003, in accordance with the provisions of K.A.R. 28-19-17, Prevention of Significant Deterioration (PSD), which adopt the federal standards, procedures and requirements of 40 CFR 52.21 by reference. These air quality regulations apply to major stationary emission sources located in areas designated as "attainment" under the federal Clean Air Act (CAA). Attainment areas are areas where the air quality meets or exceeds the national ambient air quality standards (NAAQS). Changes in the project design since that date have resulted in the need to make minor revisions to the original permit issued January 6, 2003.

The PSD regulations require evaluation of emission reduction techniques to identify the best available control technology (BACT) for each pollutant for which the emission rate exceeds the PSD significant level. The purpose of BACT is to affect the maximum degree of reduction achievable, taking into account energy, environmental and economic impacts for each pollutant under review. Evaluation of the estimated emissions for the proposed clean fuels project indicates that the emission rate of oxides of nitrogen, sulfur dioxide, carbon monoxide, particulate matter and volatile organic compounds all exceed the significance levels. NCRA conducted the required BACT analyses. The department has reviewed NCRA's BACT analyses and concurs with its findings that dry low NOx burners, good combustion practices, use of low sulfur refinery fuel gas, leak check detection programs and various good operating practices is the BACT for the clean fuels project.

The PSD regulations also require an evaluation of the impacts, if any, that emissions from the proposed modifications may have on the ambient air quality, visibility, vegetation and soils. NCRA has conducted the required analyses in accordance with methods approved by the U.S. Environmental Protection Agency. The ambient impact analysis was revised to include the emission changes due to the project revisions. The results of the analyses conclude that there should be no significant impacts on the ambient air quality, visibility, local vegetation or soils.

A public comment period has been established until June 20 to allow citizens the opportunity to express any concerns or comments they may have about this permitting action. All comments should be submitted in writing to Brie Wilkins, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366, or provided in oral and/or written form at the public hearing.

A person may request a public hearing be held on the proposed permit revisions. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins not later than the close of business June 20 in order for the Secretary of Health and Environment to consider the request.

A copy of the proposed permit, the permit application and the information relied upon during the permit application review process is available for public review during normal business hours (8 a.m. to 5 p.m.) at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, and at the KDHE North Central District Office, 2501 Market Place, Salina. Questions about the draft permit should be directed to Dana Morris at (785) 296-1578. To review the proposed permit and supporting documentation, or to obtain copies, contact Brie Wilkins, (785) 296-1593, at the KDHE central office, or Rick Brunetti, (785) 827-1544, at the KDHE North Central District Office.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031978



**State of Kansas  
Pooled Money Investment Board**

**Notice of Investment Rates**

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 12-1675(b)(c)(d), 75-4201(l) and 75-4209(a)(1)(B).

**Effective 5-16-05 through 5-22-05**

Term	Rate
1-89 days	3.00%
3 months	2.76%
6 months	3.13%
1 year	3.34%
18 months	3.48%
2 years	3.57%

Derl S. Treff  
Director of Investments

Doc. No. 031968

**State of Kansas  
Department of Health  
and Environment**

**Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Cloud Ceramics has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to add a new tunnel kiln and a dryer in order to increase brick production. Emissions of hazardous air pollutants (HAP), nitrogen oxides (NOx), carbon monoxide (CO), sulfur oxides (SOx), total particulate matter (PM) and PM equal to or less than 10 microns in diameter (PM10) were evaluated during the permit review process.

Cloud Ceramics, Concordia, owns and operates the stationary source located at 1716 Quail Road, Concordia, Cloud County.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for public review for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit may be reviewed at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office; and to review the proposed permit only, contact Craig Forsberg, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 20.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall

be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 20 in order for the Secretary of Health and Environment to consider the request.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031975

**State of Kansas  
Kansas Development Finance Authority**

**Notice of Hearing**

A public hearing will be conducted at 9 a.m. Thursday, June 2, in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the K DFA to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the respective borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. The project shall be located as shown:

**Project No. 000633—Maximum Principal Amount: \$17,000.**  
Owner/Operator: Nicholas G. Biggs. Description: Acquisition of equipment to be used by the owner/operator for farming purposes. The project is located at the Southeast Quarter of the Northeast Quarter of Section 12, Township 10, Range 7, Lincoln County, Kansas, approximately 1 mile north of Barnard on 250th Road.

The bond, when issued, will be a limited obligation of the K DFA and will not constitute a general obligation or indebtedness of the state of Kansas or any political subdivision thereof, including the K DFA, nor will it be an indebtedness for which the faith and credit and taxing powers of the state of Kansas are pledged. The bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bond when it becomes due.

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the K DFA at its offices at 555 S. Kansas Ave., Suite 202, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the K DFA.

Any individual affected by the above-described project may, at or prior to the hearing, file a written request with the K DFA that a local hearing be held on the proposal to issue a bond to finance said project. A local hearing, if requested, would be conducted in the county where the project in question is located.

Stephen R. Weatherford  
President

Doc. No. 031973

## State of Kansas

**Department of Health  
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality-operating permit. Beloit Municipal Power Plant has applied for a Class I operating permit renewal in accordance with the provisions of K.A.R. 28-19-510 et seq. The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Beloit Municipal Power Plant, 215 S. Chestnut, Beloit, owns and operates an electrical generation facility located at 215 S. Chestnut, Beloit.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit may be reviewed at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Ralph E. Walden, (785) 296-1583, at the KDHE central office; and to review the proposed permit only, contact Stan Marshall, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Ralph E. Walden, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business June 20.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Brie Wilkins, Bureau of Air and Radiation, not later than the close of business June 20 in order for the Secretary of Health and Environment to consider the request.

The U.S. Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA's 45-day review period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or

unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby  
Secretary of Health  
and Environment

Doc. No. 031983

(Published in the Kansas Register May 19, 2005.)

**Summary Notice of Bond Sale  
City of Anthony, Kansas  
\$235,000**

**General Obligation Bonds, Series 2005**

**(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Bids**

Subject to the notice of bond sale dated May 5, 2005, written bids will be received on behalf of the clerk of the city of Anthony, Kansas (the issuer), on behalf of the governing body at the City Hall, 124 S. Bluff, Anthony, KS 67003, until noon June 1, 2005, for the purchase of \$235,000 principal amount of General Obligation Bonds, Series 2005. No bid of less than 98 percent of the principal amount of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 15, 2005, and will become due on June 1 in the years as follows:

Year	Principal Amount
6/1/2006	\$10,000
6/1/2007	15,000
6/1/2008	15,000
6/1/2009	15,000
6/1/2010	15,000
6/1/2011	15,000
6/1/2012	15,000
6/1/2013	15,000
6/1/2014	15,000
6/1/2015	15,000
6/1/2016	15,000
6/1/2017	15,000
6/1/2018	20,000
6/1/2019	20,000
6/1/2020	20,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on June 1 and December 1 in each year, beginning June 1, 2006.

**Optional Book-Entry-Only System**

The successful bidder may elect to have the bonds registered under a book-entry-only system administered through DTC.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check drawn on a bank located in the United States or a qualified financial surety bond in the amount of \$4,700 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about June 15, 2005, to DTC for the account of the successful bidder or at such bank or trust company in the contiguous United States as may be specified by the successful bidder, or elsewhere at the expense of the successful bidder.

**Assessed Valuation and Indebtedness**

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2004 is \$10,442,063. The total general obligation indebtedness of the issuer as of the date of delivery of the bonds, including the bonds being sold, is \$1,860,000.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Gilmore & Bell P.C., Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer, printed on the bonds and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the undersigned or from the financial advisor at the addresses set forth below.

**Written and Facsimile Bid and Good Faith Deposit****Delivery Address:**

Donald Heidrick, Clerk  
City Hall, 124 S. Bluff  
Anthony, KS 67003  
(620) 842-5434  
Fax (620) 842-5753  
E-mail: dheidrick@anthonykansas.org

**Facsimile Bid and Good Faith Deposit****Delivery Address:**

Ranson Financial Consultants, L.L.C.  
Financial Advisor  
209 E. William, Suite 401  
Wichita, KS 67202  
Attn: John Haas  
(316) 264-3400  
Fax (316) 265-5403  
E-mail: jhaas@ransonfinancial.com

Dated May 5, 2005.

Donald Heidrick, Clerk  
City of Anthony, Kansas

Doc. No. 031989

**State of Kansas****Department of Administration  
Division of Purchases****Notice to Bidders**

Sealed bids for items listed will be received by the Director of Purchases until 2 p.m. on the date indicated. For more information, call (785) 296-2376:

05/31/2005	08437	Furnish/Install Sports Field Lighting
06/01/2005	08338	Aggregate
06/01/2005	08439	Front End Loader
06/01/2005	08441	Abandoned Well Plugging
06/01/2005	08442	Abandoned Well Plugging
06/02/2005	08452	Bituminous Plant Mixture
06/07/2005	08449	Remodel Radio Shop
06/10/2005	08435	Audit and Analysis Services
06/14/2005	08366	Janitorial Services
06/21/2005	08443	Web Site Development and Deployment

The above-referenced bid documents may be downloaded at the following Web site:

<http://da.state.ks.us/purch/rfq/>

Additional files may be located at the following Web site (please monitor this Web site on a regular basis for any changes/addenda):

<http://da.state.ks.us/purch/adds/default.htm>

Contractors wishing to bid on the projects listed below must be prequalified. For more information about the prequalification process or to obtain the following bid documents, call (785) 296-8899:

06/02/2005	A-9991	Reroof Chemical Storage Building
06/02/2005	A-010023	Reroof Library, Maintenance Warehouse and Power Plant
06/07/2005	A-010028	Reroof SRS Area Office
06/07/2005	A-010040	Parking Lot B16 and B2-B3 Connecting Drive
06/08/2005	A-9984	Replace Condensing Units
06/14/2005	A-9917	Equipment Wash Building
06/15/2005	A-010036	Fire Alarm Upgrade
06/15/2005	A-010025	Water Main Valve and Condensate Receiver Replacement
06/16/2005	A-9902(A)	Asbestos Abatement
07/05/2005	A-010071	Metal Roof Retrofit "D" Cell House

The above-referenced bid documents may be downloaded at the following Web site (please monitor this Web site on a regular basis for any changes):

<http://da.state.ks.us/fp>

Chris Howe  
Director of Purchases

Doc. No. 031988

## State of Kansas

## Kansas Insurance Department

Permanent Administrative  
Regulations

## Article 1.—GENERAL

**40-1-44. Actuarial opinions and memorandums.**

The Kansas insurance department's "policy and procedure relating to actuarial opinions and memorandums," dated July 9, 2004, is hereby adopted by reference. (Authorized by and implementing K.S.A. 40-409, as amended by L. 2004, ch. 128, sec. 1; effective Jan. 24, 1997; amended June 3, 2005.)

**Article 3.—FIRE AND CASUALTY INSURANCE**

**40-3-50.** (Authorized by K.S.A. 40-103; implementing K.S.A. 1992 Supp. 40-1117; effective Nov. 29, 1993; revoked June 3, 2005.)

Sandy Praeger  
Kansas Insurance Commissioner

Doc. No. 031987

## State of Kansas

## Kansas Housing Resources Corporation

Permanent Administrative  
Regulations**Article 1.—DWELLINGS CONSTRUCTED WITH  
PUBLIC FINANCIAL ASSISTANCE;  
ACCESSIBILITY STANDARDS**

**127-1-1. Request for waiver from accessibility standards.** (a) "Director" means the director of the division of housing in the Kansas development finance authority or a designee.

(b)(1) Each application for a waiver of an accessibility requirement established by K.S.A. 58-1402, and amendments thereto, shall be submitted to the director in writing. The application shall identify the following:

(A) The specific accessibility standard or standards for which the applicant is requesting a waiver;

(B) The street address of the dwelling for which the waiver is requested, as well as the city and county in which the dwelling is located;

(C) the public financial assistance program used to assist in financing the construction of the dwelling; and

(D) the reasons for the requested waiver.

(c)(1) Each application for a waiver based on financial impracticality shall include a notarized estimate of the costs of complying with the accessibility standard or standards for which a waiver is requested. The estimate shall be provided by a residential builder or contractor qualified by experience with projects of a similar size and scope.

(2) Each application for a waiver based on environmental impracticality shall include an official topographical map depicting those natural hazards of the dwelling site that make it impracticable to comply with the accessibility standard or standards for which a waiver is re-

quested. Full compliance shall be considered environmentally impractical only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features. If full compliance is determined environmentally impracticable, any portion of the facility that can be made accessible shall continue to be subject to the accessibility standard or standards for which a waiver is requested.

(d) The proceedings for consideration by the director of each request for a waiver shall not be subject to the Kansas administrative procedure act. Following a review of the application for a waiver, additional information and documentation pertaining to the basis for the requested waiver may be requested by the director. Within 60 days of the date on which the director receives the application for a waiver, written notice of the director's determination regarding the waiver application shall be provided to the applicant. The written determination shall provide notice of the applicant's right to review of the determination under K.S.A. 77-601 *et seq.*, and amendments thereto. (Authorized by K.S.A. 2004 Supp. 58-1405 and 58-1407; implementing K.S.A. 2004 Supp. 58-1405; effective June 3, 2005.)

Stephen R. Weatherford  
President

Doc. No. 031974

## State of Kansas

## Department of Administration

Permanent Administrative  
Regulations**Article 1.—PURPOSE, ADOPTION AND  
AMENDMENT OF REGULATIONS;  
PERSONNEL POLICIES**

**1-1-1. State human resource program, responsibilities, regulations, and guidelines.** (a) The Kansas civil service act shall be administered by the director to establish a complete human resource program that provides an effective, diverse, responsible, and quality workforce. The regulations in articles 1 through 14 and any associated guidelines shall apply only to classified employees unless otherwise specifically stated.

(b) The central personnel office for the state as one employer shall be the division of personnel services.

(c) The statewide human resource program shall be managed by the director in partnership with the human resource directors and staff of other state agencies. Agencies shall be provided with opportunities to share in the responsibility of developing regulations and implementing the resulting programs. Each human resource duty that is delegated to an appointing authority by the director shall be the responsibility of the appointing authority. The appointing authority shall comply with statewide personnel regulations and statutes.

(d) The human resource regulations and bulletins shall be made available to each agency by the director.

(e) Each agency shall make available for inspection all human resource regulations and bulletins to all employ-

ees in a manner that is both known to employees and available at all times.

(f) Standards of health and safety in state agencies and a comprehensive health and safety program for the state service shall be established by the director, in cooperation with appropriate agency administrators.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended May 31, 1996; amended June 5, 2005.)

## Article 2.—DEFINITIONS

**1-2-9. Appointing authority.** (a) "Appointing authority" means a person or group of persons empowered by the constitution, by statute, or by lawfully delegated authority to make human resource decisions that affect state service, including designees of the appointing authority as provided in subsection (b).

(b) Any appointing authority may select an employee or group of employees to act as the designee of the appointing authority to make specified human resource decisions that affect state service.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended Dec. 17, 1995; amended June 5, 2005.)

**1-2-25. Compensatory time credits.** "Compensatory time" means time off, in lieu of monetary payment for overtime worked, given pursuant to K.A.R. 1-5-24. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended, T-86-17, June 17, 1985; amended, T-86-36, Dec. 11, 1985; amended May 1, 1986; amended, T-87-11, May 1, 1986; amended May 1, 1987; amended, T-89-1, May 1, 1988; amended Oct. 1, 1988; amended June 5, 2005.)

**1-2-25a. Holiday compensatory time.** "Holiday compensatory time" means leave given in accordance with K.A.R. 1-9-2 to employees who work on holidays and who are compensated for this holiday work by receiving time off at a later date, at the rate of one and a half hours off for one hour worked. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective June 5, 2005.)

**1-2-30.** This regulation shall be revoked on and after June 5, 2005. (Authorized by and implementing K.S.A. 1998 Supp. 75-4362 and K.S.A. 75-4363; effective April 13, 1992; amended July 26, 1993; amended Oct. 1, 1999; revoked June 5, 2005.)

**1-2-31. Demotion.** "Demotion" means the movement of an employee from a position in one class to a position in another class having a lower pay grade, either on an involuntary basis for disciplinary purposes or on a voluntary basis. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 2004 Supp. 75-2949, K.S.A. 75-2949d, 75-3707, and 75-3746; effective May 1, 1979;

amended Dec. 17, 1995; amended June 7, 2002; amended June 5, 2005.)

**1-2-43a. Incumbent.** "Incumbent" means the employee occupying a particular position. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective June 5, 2005.)

**1-2-44. In pay status.** "In pay status" means time worked, and time off work for which the employee is compensated because of a holiday, the use of any kind of leave with pay, or the use of compensatory time or holiday compensatory time. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707, 75-3746, and 75-5507; effective Dec. 17, 1995; amended June 5, 2005.)

**1-2-46. Length of service.** (a) "Length of service" shall mean total time worked in the classified service or unclassified service, including time spent on an appointment to a position pursuant to K.S.A. 75-2935(1)(i), and amendments thereto. Length of service shall exclude the following:

- (1) Time worked as a temporary employee;
  - (2) time worked as a student employed by any board of regents institution;
  - (3) time worked as a resident worker in an institution of mental health, as defined in K.S.A. 76-12a01 and amendments thereto, or a state veteran's home operated by the Kansas commission on veteran's affairs; and
  - (4) time worked as an inmate.
- (b) Time spent on military leave and time off while receiving workers compensation wage replacement for loss of work time shall be considered to be time worked in the classified or unclassified service. Time on leave while receiving workers compensation wage replacement for a disability attributable to state employment before May 1, 1983, shall not be credited.

(c) Within educational institutions under the control and supervision of the state board of regents or the state board of education, time spent on leave of absence, if imposed by the educational institution based on employment customs arising from an academic or school calendar requiring less than a full calendar year of service, shall be considered to be time worked in the classified service. However, length of service based on this leave of absence shall not be transferable to other state agencies. For the purposes of layoff, employees of these institutions shall be credited only for actual time worked.

(d)(1) Length of service for computing vacation and sick leave accrual rates and for layoff or compensation purposes shall not be recalculated using prior versions of this regulation for employees who have no break in service.

(2) Length of service for determining vacation and sick leave accrual rates and for layoff or compensation purposes for an individual returning to state service shall be the amount of length of service on record on December 17, 1995, or on the date the individual left state service, whichever date is later.

(continued)

(e) Authorized leave without pay over 30 consecutive days shall not count toward length of service. However, authorized leave without pay for 30 consecutive days or less shall not be considered a break in service.

(f) Increased rates of vacation leave earnings based on length of service shall not be retroactive.

(g) For purposes of leave accrual, layoff, and longevity bonus pay, the length of service of any retiree returning to state service shall be reduced to zero and calculated on the same basis as that for a new hire.

(h) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-87-52, Dec. 19, 1986; amended May 1, 1987; amended Dec. 27, 1993; amended Dec. 17, 1995; amended Sept. 18, 1998; amended June 5, 2005.)

**1-2-74. Administrative leave.** "Administrative leave" means leave with pay that is approved by the appointing authority for an employee pending the outcome of an investigation of that employee under K.A.R. 1-9-19 or for other situations in which the appointing authority determines that administrative leave with pay is in the best interests of the state. Administrative leave shall not be used as a reward. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective Oct. 1, 1999; amended June 5, 2005.)

**1-2-84a.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999; revoked June 5, 2005.)

**1-2-84b.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999; revoked June 5, 2005.)

**1-2-97. Unclassified service.** "Unclassified service" means those positions specifically designated by law as unclassified. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 2004 Supp. 75-2935, as amended by 2005 SB 74, § 3, and K.S.A. 75-3746; effective May 1, 1979; amended June 5, 2005.)

### Article 3.—WORKFORCE PLANNING AND CONTROL

**1-3-2.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 1994 Supp. 75-3747; implementing K.S.A. 75-2956a; effective May 1, 1979; amended Dec. 17, 1995; revoked June 5, 2005.)

### Article 4.—CLASSIFICATION

**1-4-2. Position management.** (a) Each supervisor shall structure each position to promote efficient use of the workforce and to fulfill current and future requirements, and shall accurately describe in writing the duties of the position. The supervisor shall review each subordinate position when the responsibilities of the position change, each time the position becomes vacant, and when

other pertinent circumstances indicate a review is appropriate.

(b) Each appointing authority shall maintain a system of position identification and control, indicating the organizational unit, location, duties, and work hours and shifts of each established position, which shall be made available to the director upon request.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2950 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2950, and 75-3746; effective May 1, 1979; amended May 1, 1981; amended May 31, 1996; amended June 5, 2005.)

**1-4-3. Position description.** Each appointing authority shall ensure that a current position description is prepared and maintained for each position in the agency and that each position description accurately describes the duties and responsibilities of the position. The position description shall be signed by the supervisor, the employee, and the agency's human resource director or other human resource official. The appointing authority shall make the position description available to the division of personnel services upon request. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2950 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2950, and 75-3746; effective May 1, 1979; amended June 5, 2005.)

**1-4-5. Position allocation; delegation to appointing authority.** (a) The appointing authority shall notify the director when a new position is created in the classified service. The notice shall include a statement of the duties and responsibilities that are to be assigned to the position. The position shall then be allocated by the director. Except as otherwise provided in the act or in these regulations, no person shall be appointed to, or employed in, a classified position until the position has been allocated to an established class or until the classification plan has been amended to provide for the new position.

(b) The authority to allocate positions in an agency may be delegated by the secretary of administration to the appointing authority of that agency. The delegation shall specify the classes, or group of classes, for which the authority is granted and the conditions under which the delegation is made. Any delegation of allocation authority may be modified or withdrawn by the secretary to the extent provided by K.S.A. 75-2938(c), and amendments thereto.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938 and 75-3746; effective May 1, 1979; amended May 1, 1981; amended June 5, 2005.)

**1-4-7. Position reallocation.** (a)(1) Upon the initiative of the director or the request of an incumbent or appointing authority, a position shall be reviewed whenever either of the following conditions is met:

(A) The organizational structure of an agency or the duties of a position are significantly changed.

(B) For any reason other than those specified in paragraph (a)(1)(A), a position appears to be allocated incorrectly.

(2) After conferring with the appointing authority, the position under review may be reallocated by the director

to a different class, or the existing allocation may be retained. During the review, other positions may be reviewed and reallocated as required.

(b) Reallocation shall not be used for either of the following purposes:

(1) To avoid the provisions of the regulations pertaining to layoffs, demotions, promotions, and dismissals; or

(2) to increase or decrease the pay of an employee in circumvention of the regulations pertaining to pay.

(c) Unless otherwise prescribed by the secretary of administration, an appointing authority who has been granted authority to allocate positions shall have authority to reallocate the same positions.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938 and 75-3746; effective May 1, 1979; amended May 1, 1981; amended Dec. 17, 1995; amended June 5, 2005.)

#### **1-4-8. Effect of position reallocation on incumbent.**

(a)(1) If a position that is reallocated is filled on the date of reallocation by an employee with permanent or probationary status, and if the incumbent wishes to remain in the position, the appointing authority shall, within the current pay period, appoint the incumbent to the class to which the position was reallocated.

(2) If the class specification for the reallocated position requires that the person appointed to any position in that class possess a special license or certificate and the incumbent does not possess such a license or certificate, the incumbent shall not be appointed to the class to which the position was reallocated. If the reallocation of any position to a class requires that the employee possess a special license or certificate, and if the incumbent does not possess that license or certificate, the reallocation may be made only after the reallocation has been approved in writing by the director.

(b) Except as provided in paragraph (a)(2), if the incumbent had permanent status at the time the position is reallocated, the appointing authority shall appoint the incumbent to the class to which the position was reallocated with permanent status, but may require the incumbent to serve a probationary period in accordance with the provisions of K.A.R. 1-7-4(b). Notice of the probationary period shall be given to the employee in writing.

(c) If the reallocation of a position occupied by an employee with permanent status is to a lower class, the appointing authority shall give the employee a written statement of the reason the position is being reallocated to a lower class.

(d) A reallocation shall not be retroactive unless authorized by the director, in writing, based on the director's determination that failure to do so would create a manifest injustice or undue hardship on the employee whose position is being reallocated. Each determination to authorize a retroactive reallocation shall be made by the director on a case-by-case basis. The length of time for which the reallocation will be retroactive shall be determined by the director.

(e) If the incumbent was serving a probationary period in the former class, the time served on probation in the former class shall apply towards the probationary period

in the new class. However, if the incumbent had permanent status, but was serving a probationary period as a result of a promotional appointment to the former class, the appointing authority may start the employee on a new probationary period. The new probationary period shall begin on the date of the appointment to the new class, and the length of the probationary period shall be the same as that provided for promotional appointments in K.A.R. 1-7-4(b).

(f)(1) If the incumbent does not wish to remain in the position upon its reallocation, the incumbent shall submit a written notice to the appointing authority within 14 calendar days of the date on which the incumbent is given a written notice of the pending reallocation. If the incumbent does not submit a written notice within that 14-day period, the incumbent shall be presumed to desire to remain in the position as reallocated.

(2) If the incumbent has submitted the written notice as provided under paragraph (f)(1) or does not qualify for the position under paragraph (a)(2), the appointing authority shall take one of the following actions in accordance with these regulations:

(A) Lay off the incumbent if the incumbent has permanent status;

(B) terminate the incumbent if the incumbent has probationary status; or

(C) appoint the incumbent to a different position on the basis of a promotion, transfer, or voluntary demotion.

(g) Different qualifications may be established by the director for those positions in a class that are subject to federal laws and regulations.

(h) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2946 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2946, 75-3707, and 75-3746; effective May 1, 1979; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended Oct. 1, 1999; amended June 5, 2005.)

### **Article 5.—COMPENSATION**

**1-5-8. Beginning pay.** (a) Except as specified in subsection (b), each new hire and each rehire not based on a reemployment or reinstatement shall be paid at the minimum step of the pay grade for the class.

(b) New hires and rehires not based on a reemployment or a reinstatement may be paid at higher steps in the pay grade only under the following circumstances:

(1) If an agency has an eligible candidate with exceptional qualifications directly related to the vacant position and the agency cannot employ the person at the minimum step, the appointing authority may approve beginning pay for the individual at a higher step in the pay grade. Exceptional qualifications shall be based on the candidate's education, training, experience, skills, and other job-related qualifications.

(2) If there is a lack of candidates for a class of positions available for employment at the minimum step, one or more appointing authorities may request that the director establish some higher step in the pay grade as the beginning pay in the class for new hires and for rehires not based on a reemployment or a reinstatement. Authori-

*(continued)*

zation for the higher beginning pay may be given to a designated agency or agencies, to all agencies, or for a particular geographical area. This authorization shall remain in place until cancelled by the director. If the authorization has remained in place for three years for reasons other than a geographic basis, a compensation study shall be conducted by the director.

(A) When an appointing authority uses an authorization granted under paragraph (b)(2), the appointing authority shall, except as provided below, raise the pay of each incumbent in the class who is being paid at a lower step to the higher beginning pay.

(B) If the authorization granted under paragraph (b)(2) is only for a particular geographical area, the appointing authority shall not raise the pay of incumbents in other geographical areas.

(C) Each appointing authority whose agency has positions in the class or geographical area authorized for a higher beginning pay shall be notified of the authorization by the director. Each increase to a higher step given to an incumbent because the agency uses a higher beginning pay under paragraph (b)(2) shall be effective at the beginning of the next pay period. The length of time that the incumbent has spent on the previous step of the pay grade shall count toward the time-on-step requirement for the new step.

(3) Any appointing authority may pay a temporary employee at a higher step in the pay grade if the candidate has exceptional qualifications directly related to the position or has former permanent status in the same class or another class at the same or higher pay grade.

(c) In a manner prescribed by the director, the appointing authority shall report to the director each hire above the minimum step made by the appointing authority as provided in this regulation.

(d) The beginning pay for any unclassified employee hired into a position in the classified service shall be determined in accordance with the provisions of this regulation.

(e) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2950 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2938a, 75-2950, 75-3707, and 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 17, 1995; amended Oct. 24, 1997; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended June 5, 2005.)

**1-5-9. Pay of temporary employee.** (a) Except as provided in subsection (b), the pay of each temporary employee shall be the minimum step of the pay grade to which the classification is assigned.

(b) At the option of the appointing authority, any temporary employee may be hired at a step higher than the minimum step as provided in K.A.R. 1-5-8.

(c) No person hired on a temporary basis shall be eligible for any step increase during the period of temporary employment.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2945 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2945, and

75-3707; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995; amended Sept. 18, 1998; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended June 5, 2005.)

**1-5-14. Pay of employee upon transfer.** (a)(1) Any employee who is transferred may be paid on the same step as the step on which the employee was paid before the transfer.

(2) Any employee may transfer to a lower step within the pay grade, if this transfer is agreed upon by the employee and the appointing authority.

(3) If an employee is transferred to a trainee class with an abbreviated pay grade in lieu of layoff, the employee may be paid at the employee's present rate of pay if the rate of pay does not exceed the maximum pay rate for the pay grade to which the trainee class is assigned.

(b) For each employee whose pay is determined under subsection (a), the length of time that the employee has spent on the previous step shall count toward the time-on-step requirement for computing the employee's pay increase date.

(c) If an employee transfers from one position to another within the same agency, the appointing authority may pay the employee at a higher step on the pay grade than the step on which the employee was paid before the transfer if the appointing authority determines that the increase is in the best interests of the state. Nothing in this regulation shall authorize pay above the maximum step of the pay grade. The employee's pay increase date shall be governed by the time-on-step requirement of the new step.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938 and 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1987; amended Dec. 17, 1995; amended Sept. 18, 1998; amended June 5, 2005.)

**1-5-15. Pay of employee upon demotion.** (a) Each employee who is demoted, in accordance with applicable regulations, whether voluntarily or for disciplinary reasons, shall be paid at the same step of the pay grade for the lower class as the step on which the employee was being paid in the higher class, or at any higher step that results in a decrease in the rate of compensation, except as specified in subsection (b).

(b) Any employee accepting a voluntary demotion may be paid at a step of the new pay grade that does not result in a decrease in rate if the action is in the best interest of the state service, except that the employee's rate of pay shall not exceed the maximum pay rate for the new pay grade.

(c) Nothing in this regulation shall prevent a demotion being made to a step in the pay grade lower than permitted by this regulation, if agreed upon in writing by the employee and appointing authority. However, if an employee with permanent status is promoted and, subsequently, is demoted pursuant to K.S.A. 752944, and amendments thereto, the employee shall be paid on a step that is no lower than the same step of the pay grade for



the lower class as the step that the employee was on immediately before the promotion.

(d) An employee who takes a voluntary demotion may also receive a pay step increase on the same date if the employee is eligible for this increase.

(e) The pay increase date for any employee demoted for disciplinary reasons shall be governed by the time-on-step requirement of the step to which demoted. The pay increase date for any employee who takes a voluntary demotion shall be unchanged if the employee did not receive a pay step increase on the date of the demotion.

(f) The provisions of K.A.R. 1-5-10, rather than this regulation, shall apply when a former permanent employee who was separated from the service for more than 30 days is reinstated to a class with a lower pay grade.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended March 20, 1989; amended Jan. 6, 1992; amended Dec. 27, 1993; amended Nov. 21, 1994; amended Dec. 17, 1995; amended May 31, 1996; amended Sept. 18, 1998; amended June 5, 2005.)

**1-5-19c. Effect of pay grade changes on pay.** (a) If the governor has assigned a class of positions to a higher pay grade, the appointing authority shall pay each employee in the class on one of the following steps:

(1) The same step of the pay grade for the new class as the step on which the employee was being paid in the lower class;

(2) any lower step of the pay grade for the new class that gives the employee an increase in pay; or

(3) the step on the pay grade of the new class that provides the same rate, in dollar amount, as the current rate paid to the employee.

(b) If the governor has assigned a class of positions to a lower pay grade, each employee in the class shall continue to be paid at the same rate, in dollar amount, as the rate paid to the employee immediately before the assignment to the new pay grade.

(c)(1) For those employees who receive an increase in pay under either paragraph (a)(1) or (a)(2), the pay increase date shall be governed by the time-on-step requirement of the new step.

(2) For those employees who did not receive an increase in pay under either paragraph (a)(3) or subsection (b), the length of time that the employee has spent on the step of the previous pay grade shall count toward the time-on-step requirement for computing the pay increase date. If the employee's current salary is above the new pay grade, the employee shall not receive a salary increase until the employee's rate of pay is less than the highest step of the new pay grade.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-2938a, and 75-3707; effective May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989;

amended Dec. 17, 1995; amended Oct. 24, 1997; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended June 5, 2005.)

**1-5-20. Individual pay decreases.** (a) The appointing authority may reduce the pay of any employee one step because of a less than satisfactory rating according to the employee's current performance review. Such a decrease shall not result in a pay rate below the minimum step of the pay grade. Approval of the director shall be required for more than one of these reductions in any 12-month period.

(b) Following a pay decrease, the employee's pay increase date shall be governed by the time-on-step requirement of the new step, except that the pay may be increased to the step from which it was reduced in any later payroll period, if the employee's subsequent rating is satisfactory.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended, E-81-14, June 12, 1980; amended May 1, 1981; amended May 1, 1982; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended Dec. 17, 1995; amended, T-1-1-30-01, Feb. 4, 2001; amended May 25, 2001; amended June 5, 2005.)

**1-5-24. Overtime.** (a) Except as otherwise provided by statute or these regulations, employees of the state who are eligible to receive overtime compensation under the fair labor standards act of 1938 (FLSA), as amended, shall be compensated for overtime as provided in that act. State employees in agricultural positions shall also be eligible for overtime compensation. The final determination of eligibility to receive overtime as specified in this subsection shall be made by the director for all classified employees and all unclassified employees whose pay is subject to approval by the governor under K.S.A. 75-2935b and amendments thereto.

(b)(1) The rate at which any eligible employee is to be compensated for overtime worked shall be one and a half times the employee's regular rate of pay. This rate shall not include premium pay for holidays worked or any call-in and callback compensation paid for hours not actually worked.

(2) All employees who are eligible for overtime compensation and who were paid for overtime during the 12 months preceding the receipt of a longevity bonus payment or a quality award bonus payment shall receive an additional overtime payment, which shall be calculated as follows:

(A) Divide the bonus pay by total hours worked in the preceding 12 months to obtain the increase in the regular rate; and

(B) multiply the increase in the regular rate by the number of overtime hours paid in the preceding 12 months; then, multiply that product by one-half. The result shall be the employee's additional overtime pay.

No additional overtime pay shall be due for any overtime hours worked during the preceding 12 months for which compensatory time was given under subsection (e).

(continued)

(c) Each appointing authority shall be responsible for control of overtime in the agency. Overtime, to the extent possible, shall be authorized in advance by the responsible supervisor.

(d)(1) Except as provided in paragraph (d)(3), in determining whether an employee in a position or class determined to be eligible for overtime pay has worked any overtime in a given workweek or work period, only time actually worked shall be considered.

(2) The number of hours of paid leave used in an employee's workweek or work period that, when added to the number of hours actually worked in that employee's workweek or work period, exceeds the applicable overtime threshold shall be compensated in the following manner:

(A) Given as equivalent time off as specified in subsection (f); or

(B) paid at the hourly rate of pay.

(3) If all of the following conditions are met, an official state holiday may be counted as time worked for employees in positions that have been determined to be eligible for overtime compensation:

(A) The employee is asked to report to work in order to respond to a building, highway, public safety, or other emergency, as determined by the appointing authority.

(B) This work is performed outside the employee's normal work schedule for the workweek or work period that includes the official state holiday.

(C) The appointing authority authorizes inclusion of that official state holiday in calculating time worked by the employee.

The appointing authority shall report to the director the name and position number of each employee for whom the state holiday will be counted as time worked.

(e)(1)(A) In lieu of paying an eligible employee at the time-and-a-half rate for overtime worked, an appointing authority may elect to compensate an employee for overtime worked by granting compensatory time off, at the rate of one and a half hours off for each hour of overtime worked, at some time after the workweek or work period in which the overtime was worked if the conditions of paragraph (e)(1)(B) are met.

(B) Any appointing authority may elect to compensate an employee for overtime worked by granting compensatory time off only if an agreement or understanding has been reached before the performance of the work. Except as provided in 29 C.F.R. 553.23(b), the agreement or understanding concerning compensatory time off shall be between the appointing authority and the individual employee, and a record of its existence shall be maintained for each employee. The agreement or understanding to provide compensatory time off may take the form of an express condition of employment if the employee knowingly and voluntarily agrees to it as a condition of employment and if the employee is informed that the compensatory time earned may be preserved, used, or cashed out in a manner consistent with the provisions of this regulation. The appointing authority of any agency that had a regular practice of awarding compensatory time off in lieu of overtime pay before April 15, 1986 shall be deemed to have reached an agreement or understanding with any employee who has been continuously employed

by that agency in one or more positions that are eligible for overtime from a date before April 15, 1986.

(2) An eligible employee shall not accrue more than 240 hours of compensatory time for overtime hours worked. Each eligible employee who has accrued 240 hours of compensatory time off shall, for any additional overtime hours of work, be compensated with overtime pay. However, an appointing authority may establish a lower maximum accumulation for employees in that agency.

(3) If an eligible employee is paid for accrued compensatory time off, this compensation shall be paid at the regular rate earned by the employee at the time the employee receives the payment.

(4)(A) Except as provided in K.A.R. 1-9-14 (a), each eligible employee who has accrued compensatory time off authorized under this subsection shall, upon termination of employment or upon promotion, demotion, or transfer to another state agency, be paid for the unused compensatory time at a rate of compensation not less than the higher of either of the following rates:

(i) The average regular rate received by the eligible employee during the last three years of the employee's employment; or

(ii) the final regular rate received by the eligible employee.

(B) Any longevity or quality award bonus payments received during the last three years of employment shall be included in determining the average regular rate and the final regular rate specified in paragraph (e)(4)(A).

(5)(A) Each eligible employee who has accrued compensatory time off authorized under this subsection and who has requested the use of compensatory time shall be permitted by the appointing authority to use this time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the agency.

(B) Each employee who has accrued compensatory time and whose FLSA status is changed to exempt shall be granted the compensatory time off, paid for the entire amount, or provided a combination of both compensatory time off and pay, so that there is no remaining compensatory time balance before the employee's status changes to exempt.

(C) Each employee who has accrued compensatory time off under this subsection may be required by the appointing authority to use the compensatory time within a reasonable period after receiving notice of this requirement. The notice shall state the length of time in which a specified number of hours of compensatory time are to be used.

(f) When an employee who is eligible for overtime works additional time that could result in overtime hours, that employee's appointing authority may give the employee equivalent time off, on an hour-for-hour basis, in the workweek or work period in which the additional time is worked if any of the following conditions is met:

(1) The appointing authority notifies the employee of the change in the employee's normal work schedule for that workweek or work period at least five calendar days in advance of the day in which the employee's normal work schedule is first changed.

(2) The appointing authority has established a written policy stating that the employee may be required to take equivalent time off, on an hour-for-hour basis, in the workweek or work period in which additional time is worked.

(3) The employee requests or agrees to take equivalent time off during the workweek or work period in which additional time was worked, and the appointing authority determines that this arrangement is not detrimental to the operations of the agency.

In any case, the equivalent time off shall be taken at a time agreeable to the appointing authority during the workweek or work period in which the additional time is worked.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, K.S.A. 75-5507, and 75-5514; implementing K.S.A. 75-2938, 75-3707, 75-3746, 75-5508, K.S.A. 2004 Supp. 75-5537, and K.S.A. 75-5541; effective May 1, 1979; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-86-17, June 17, 1985; amended, T-86-36, Dec. 11, 1985; amended May 1, 1986; amended, T-87-11, May 1, 1986; amended May 1, 1987; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 27, 1994; amended Dec. 17, 1995; amended May 31, 1996, amended Sept. 1, 2000; amended June 5, 2005.)

**1-5-30. Benefits for employees activated to military duty.** (a) Each employee who is ordered to report for active military service upon the activation of the National Guard and reserve units by presidential order, or who volunteers for this active duty, shall be eligible for the following benefits:

(1) The employee shall continue to accrue length of service, but shall not accrue vacation or sick leave. Upon return to work, the employee's vacation leave accrual rate shall be increased to the appropriate level if the length of service the employee accrued while on military leave qualifies the employee for a higher accrual rate.

(2) A death benefit shall be payable if the employee dies while on active military duty. The death benefit shall be in an amount equal to the amount provided by the group term life insurance through the Kansas public employees retirement system that the employee would have received at the time of death if the employee had not been on active duty. The employing state agency at the time the employee entered active duty shall pay the death benefit. The death benefit shall be paid to the employee's beneficiary or beneficiaries, as designated on forms approved by the director of personnel services. If no beneficiary has been designated, the death benefit shall be paid to the estate of the employee. The provisions of this paragraph shall be applicable to each state employee who meets the following conditions:

(A) Immediately before entering active duty, was eligible for the insured death benefit provided under K.S.A. 74-4901 et seq., and amendments thereto, and funded by the employing agency; and

(B) would not, at the time of death, be eligible for the death benefit described under paragraph (a)(2)(A).

(b) This regulation shall not apply to federal active duty for training purposes.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective, T-1-9-10-90, Sept. 10, 1990; effective Jan. 7, 1991; amended Jan. 6, 1992; amended Dec. 17, 1995; amended June 5, 2005.)

## Article 6.—RECRUITING AND STAFFING

**1-6-2. Recruitment.** (a)(1) For each classified vacancy to be filled, the appointing authority shall post a job requisition on the central notice of vacancy report administered by the director, except as provided in subsection (b).

(A) Each job requisition posted on the central notice of vacancy report shall be open to applications from employees within the agency that is posting the job requisition and from persons in the reemployment pool.

(B) The appointing authority may then determine whether recruitment will also be conducted among the following additional groups of individuals:

(i) All state employees and persons eligible for reinstatement; or

(ii) all state employees, persons eligible for reinstatement, and the general public.

(2) Notices of the vacancy shall be made available to all agency personnel offices. Appropriate and reasonable distribution within each agency shall be the responsibility of the appointing authority.

(3) The appointing authority, within guidelines established by the director, shall establish a period of time in which applications will be accepted for each vacancy.

(b) Notices of a vacancy shall not be required under any of the following conditions:

(1) A temporary position is to be filled.

(2) A position is to be filled by demotion or transfer.

(3) A position is to be reallocated.

(4) A governor's trainee position is to be filled.

(5) The director determines that, for good cause, a notice is not in the best interests of the state.

(c) All job postings, announcements, and advertisements for vacancies in safety-sensitive positions as defined in K.S.A. 75-4362, and amendments thereto, or commercial driver positions as defined in K.A.R. 1-2-20, shall include a statement regarding the drug testing requirements set forth in K.A.R. 1-6-32, K.A.R. 1-6-33, K.A.R. 1-9-19a, and K.A.R. 1-9-25.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and 75-4362; implementing K.S.A. 75-2939, 75-2942, 75-2943, 75-2944, 75-2945, 75-3707, 75-3746, and K.S.A. 2004 Supp. 75-4362; effective May 1, 1979; amended May 1, 1981; amended May 1, 1983; amended, T-1-10-28-88, Oct. 31, 1988; amended Dec. 18, 1988; amended April 13, 1992; amended Dec. 17, 1995; amended Aug. 1, 1997; amended June 5, 2005.)

**1-6-8. Selection instruments.** (a) Each appointing authority shall develop selection instruments to fairly assess the capacity and fitness of applicants to perform the duties of the position in which employment is sought. Selection instruments may include ratings of training, ex-

(continued)

perience, and other qualifications, written tests, performance tests, interviews, physical fitness tests, assessment center evaluations, medical examinations, or other selection procedures. In accordance with these regulations, the appointing authority shall be responsible for developing, maintaining, and validating selection instruments and shall make all selection instruments, procedures, records, or other selection materials available to the director upon request. Any agency, upon request, may be assisted by the director in developing, maintaining, and validating selection instruments. Selection instruments may also be developed, maintained, and validated by the director.

(b) Promotional selection instruments shall include, in addition to any or all of the selection instruments identified above, consideration of the applicant's performance and length of service.

(c) Subject to policies established by the appointing authority to protect the confidentiality of information obtained by using the selection instruments, the document or records containing this information may be inspected by the applicant.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2939, 75-2942, 75-2943, and 75-3746; effective May 1, 1979; amended Dec. 17, 1995; amended Aug. 1, 1997; amended June 5, 2005.)

**1-6-27. Demotion.** (a) Any employee with permanent status may be demoted to a position in a lower class if that position is in the same series of classes, or if the appointing authority determines that the employee can reasonably be expected to perform satisfactorily the duties of the position in the lower class. Each employee with permanent status who is demoted pursuant to this regulation shall be granted permanent status in the class to which demoted, effective on the date of the demotion.

(b) Each request for a voluntary demotion shall be subject to approval of the appointing authority. The employee shall not be entitled to appeal the voluntary demotion to the civil service board.

(c) The demotion of an employee with permanent status for unsatisfactory performance of duties, for disciplinary reasons, or for other good cause shall be managed in accordance with the appropriate procedures specified in K.S.A. 75-2944, K.S.A. 75-2949, K.S.A. 75-2949d, K.S.A. 75-2949e, and K.S.A. 75-2949f, and amendments thereto.

(d) An appointing authority may demote any new hire probationary employee or any probationary employee who was rehired on a basis other than reemployment or reinstatement to a class in a lower pay grade within the agency if the employee meets the qualifications for the lower class, if the employee can satisfactorily perform the duties of the lower class and if the employee has consented. Each employee with probationary status who is demoted under this subsection shall start a new probationary period that shall be no fewer than six months in length.

(e) Each unclassified employee who is voluntarily demoted to a regular classified position shall serve a probationary period in accordance with K.A.R. 1-7-4.

(f) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; im-

plementing K.S.A. 2004 Supp. 75-2949; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended Dec. 17, 1995; amended Aug. 1, 1997; amended June 5, 2005.)

**1-6-29. Acting assignments.** (a) Any appointing authority may temporarily assign an employee who has permanent status to perform the duties of another position on the basis of an acting assignment if all of the following conditions are met:

(1)(A) The other position is vacant; or

(B) The incumbent in the other position is unable or unavailable to perform the duties of that position for 30 days or more.

(2) The appointing authority makes both of the following determinations:

(A) It is necessary to assign the duties of the other position to another employee until the vacancy is filled or the incumbent returns to work.

(B) There are no other viable alternatives to an acting assignment.

(3) The employee meets the qualifications of the other position.

(4) The acting assignment is made in accordance with the provisions of this regulation.

(b) The appointing authority shall initiate action to fill the position on a permanent basis, if the incumbent has permanently vacated the position. However, the appointing authority may delay filling the position because of a shortage of funds.

(c) Acting assignments shall not be used to generate a series of acting assignments for an employee.

(d) An acting assignment shall not exceed one year in length unless approved by the director. No acting assignments made pursuant to K.S.A. 75-4315a shall exceed 12 months in duration. Acting assignments shall not be retroactive. The acting assignment procedure shall not be used for a short duration, temporary assignment of an employee for fewer than 30 days.

(e) Documentation of the acting assignment shall be placed in the employee's permanent record.

(f)(1) If an employee is acting in a position assigned to a pay grade higher than that of the employee's normal position, the employee shall be paid at a step on the higher grade that gives the employee an increase in pay. Such an increase shall not exceed the highest step that would be possible if the employee was being promoted to the position.

(2) When the acting assignment is terminated and the employee is returned to the former class, the employee's pay shall revert to whatever rate it would have been had the employee not received the acting assignment.

(3) Neither the employee's pay increase date nor the employee's status in the normal position shall be affected by an acting assignment.

(g)(1) If an employee is acting in a position assigned to the same pay grade as that of the employee's normal position, the appointing authority may compensate the employee at a higher step of the pay grade than the step on which the employee is paid in the employee's normal position if the appointing authority determines the pay increase is in the best interests of the state. Nothing in this

regulation shall authorize pay above the maximum step of the pay grade. The employee's pay increase date shall be governed by the time-on-step requirement of the new step to which the employee is assigned under this subsection.

(2) When the acting assignment is terminated and the employee is returned to the former class, the employee's pay shall revert to whatever rate it would have been had the employee not received the acting assignment.

(h) If an employee is acting in a position assigned to a pay grade lower than that of the employee's normal position, the employee shall be paid at the employee's normal pay rate.

(i) For the duration of any acting assignment, the employee may receive pay step increases in accordance with applicable pay step increase regulations.

(j) If the employee is promoted to a position in which the employee has served in an acting assignment, any accumulated months shall count towards the next pay step increase. The time served in the acting assignment may be credited towards the probationary period required for promotions.

(k) In a manner prescribed by the director, the appointing authority shall report to the director all acting assignments made by the appointing authority pursuant to this regulation.

(l) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2938, 75-3707, 75-3746, and 75-4315a; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended May 1, 1987; amended Jan. 6, 1992; amended Dec. 17, 1995; amended Oct. 24, 1997; amended June 5, 2005.)

**1-6-32. Candidate drug screening test for safety-sensitive positions.** (a) A drug test shall be administered to each candidate for a safety-sensitive position upon a conditional offer of employment for such a position.

(1) "Safety-sensitive position" shall be defined as provided in K.S.A. 75-4362(g), and amendments thereto.

(2) "Conditional offer of employment," for purposes of this regulation, means an offer that is contingent upon participating in the drug screening program established under K.S.A. 75-4362, and amendments thereto.

(b) If a candidate fails to participate in the required drug screening test or receives a confirmed positive result based upon a test sample obtained from the candidate, the following requirements shall apply:

(1) The conditional offer of employment shall be null and void.

(2) The candidate shall be disqualified from certification for safety-sensitive positions in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 for a period of one year from the effective date of the disqualification action.

(c) Each candidate who has been given a conditional offer of employment shall be informed of the provisions of subsection (b) in writing and shall sign a statement agreeing to participate in the test before the test is administered. Failure to accept this condition shall make the conditional offer of employment null and void.

(d) Each candidate required to submit to a drug screen shall be advised of all of the following aspects of the drug screening program:

(1) The methods of drug screening that may be used;

(2) the substances that may be identified;

(3) the consequences of a refusal to submit to a drug screening test or of a confirmed positive result; and

(4) the reasonable efforts to maintain the confidentiality of results and any medical information that are to be provided in accordance with subsection (j).

(e) Drug screening tests may screen for any substances listed in the Kansas controlled substances act.

(f) Any candidate who has reason to believe that technical standards were not followed in deriving a confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

(g) A retest by the original or a different laboratory on the same or a new specimen may be authorized only by the director, if the director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or if there is other appropriate cause to warrant a retest.

(h) If a candidate intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies test results, the conditional offer of employment shall be withdrawn. Any of these actions by a candidate shall be grounds for disqualification for all positions in state service in accordance with K.S.A. 75-2940, and amendments thereto.

(i) If the result of a drug screening test warrants disqualification action, a candidate shall be afforded due process in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 before any final action is taken.

(j)(1) Individual test results and medical information shall be considered confidential and shall not be disclosed publicly in accordance with K.S.A. 75-4362, and amendments thereto. Each candidate shall be granted access to the candidate's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each appointing authority shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the agency's personnel officer or a designee, persons in the supervisory chain of command, the agency's legal counsel, the agency's appointing authority, the secretary of administration or a designee, the department of administration's legal counsel, and the director or a designee. Further access to these records shall not be authorized without the express consent of the director.

(k) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747 and 75-4362; implementing K.S.A. 75-2940 and K.S.A. 2004 Supp. 75-4362; effective, T-1-10-28-88, Oct. 28, 1988; effec-

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tive Dec. 19, 1988; amended Feb. 19, 1990; amended April 13, 1992; amended Dec. 17, 1995; amended October 1, 1999; amended June 5, 2005.)

#### Article 7.—PROBATIONARY PERIOD AND EMPLOYEE EVALUATION

**1-7-3. Probationary period required.** (a) The probationary period shall be considered as a working test of the employee's ability to perform adequately in the position to which the employee was hired. In order to aid the agency in developing efficient employees, the supervisor shall give reasonable instruction and training that may be required throughout the probationary period. Each appointing authority shall establish procedures so that any problems with probationary employees will be brought to the attention of the agency management for appropriate action before the end of the probationary period.

(b) Before the end of the probationary period, the appointing authority shall provide the director with results of a performance review for the employee. If the performance review given to a probationary employee before the end of the probationary period is less than satisfactory, the employee shall not be granted permanent status.

(c) Except as provided in K.A.R. 1-7-4, all new hires, promotions, and rehires shall be tentative and subject to a probationary period as authorized by K.A.R. 1-7-4. If the probationary period of an employee is to be extended as authorized by K.A.R. 1-7-4, the appointing authority, before the end of the probationary period, shall furnish the employee with a copy of the performance review stating that the probationary period is extended. Results of the performance review shall be provided to the director.

(d) Any probationary employee, other than an employee on probation due to a promotion from a position in which the employee had permanent status, may be dismissed by the appointing authority at any time during the probation period.

(e) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended June 5, 2005.)

**1-7-10. Performance reviews.** (a) Each agency's appointing authority shall establish and implement a performance review system and shall ensure that performance reviews are conducted for each employee in the classified service. The performance review shall be used to assess the effectiveness of each employee.

(1) The performance review of each employee shall be completed by the employee's immediate supervisor or by another qualified person designated by the appointing authority. "Qualified person" means a person who is familiar with the duties and responsibilities of the employee's position and with the job performance of the employee.

(2) A performance review shall be completed and a rating assigned at least annually in the manner required by the director.

(3) The appointing authority may conduct a special performance review rating for any employee at any time, unless prohibited under K.A.R. 1-14-8 due to pending layoffs.

(4) Each employee shall be given the opportunity to sign the employee's performance review as evidence that the employee has been informed of the performance review rating. The employee's signature shall not abridge the employee's right of appeal if the employee disagrees with the rating. The failure of the employee to sign the performance review shall not invalidate the rating.

(b) (1) Any employee entitled to appeal a rating under K.A.R. 1-7-11 may do so within seven calendar days after being informed of the rating. After the period of seven calendar days for filing appeals has expired and if no appeal has been filed, the appointing authority or the authority's designee shall review the rating, shall make any changes deemed necessary, shall sign the performance review, shall place the entire original performance review in the employee's official personnel file, and shall provide a copy of the review to the employee. In addition, the appointing authority may provide copies to each reviewer if the appointing authority deems necessary.

(2) If the appointing authority makes any change in the rating or adds any comment on the performance review, the review shall be returned to the employee to be signed again, and the employee, if eligible to appeal the rating, shall again have seven calendar days to file an appeal to the appointing authority. The final results of the performance review shall be reported to the director.

(c) Subject to the provisions of K.S.A. 75-2949e, and amendments thereto, two performance review ratings of less than satisfactory that are conducted within 180 days may be utilized as a basis for demotion, suspension, or dismissal of the employee.

(d) If the performance review rating assigned to an employee with probationary status at the end of the probationary period is less than satisfactory, the employee shall not be granted permanent status.

(e) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2943 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2949e, and 75-3746; effective May 1, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended, T-1-7-27-89, July 27, 1989; amended Nov. 20, 1989; amended Dec. 17, 1995; amended June 5, 2005.)

**1-7-11. Employees entitled to appeal performance reviews.** (a) Any employee who receives a rating that is lower than the highest possible rating may appeal that rating if the employee meets either of the following conditions:

(1) The employee has permanent status, including an employee with permanent status who is serving a probationary period.

(2) The employee is on probation due to a rehire on the basis of reinstatement.

(b)(1) When an action concerning the end of probationary status is dependent upon the performance review, the appeal committee may make a recommendation to the appointing authority concerning whether or not to grant permanent status to the employee. However, the appoint-

ing authority shall have the right to make the determination of whether or not to grant permanent status, subject to whatever limitations are imposed by the adjective rating of the performance review prepared by the appeal committee.

(2) Notwithstanding the limits on the duration of probationary periods established elsewhere in these regulations, the appointing authority may extend the probationary period for a limited period of time as necessary to allow the appeal committee to prepare the final performance review.

(3) The appointing authority shall report to the director each extension of a probationary period made pursuant to this regulation.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2943, 75-3706, and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2943, 75-2946, 75-3707, and 75-3746; effective May 1, 1983; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended Oct. 24, 1997; amended June 5, 2005.)

#### **1-7-12. Performance review appeal procedure.**

(a)(1) Each employee who is eligible to appeal a performance review under K.A.R. 1-7-11 may, within seven calendar days after the employee has been informed of the rating, submit an appeal in writing to the appointing authority.

(2) Within seven calendar days following receipt of the employee's written notice of appeal, the appointing authority shall have the option either to make any changes in the rating deemed appropriate or to appoint a committee of three or more persons to hear the appeal.

(3) If the appointing authority makes any change in the rating or adds any comments to the rating form, the rating form shall be returned to the employee to be signed again. The employee shall be informed that, if the employee disagrees with the revised performance review, the employee may, within seven calendar days, file an appeal in writing to the appointing authority. If the employee files an appeal of the revised review, the appointing authority shall, within seven calendar days following receipt of the employee's written notice of appeal, appoint a committee of three or more persons to hear the appeal.

(4) If an appeal committee is appointed to hear the appeal, persons shall be appointed who, in the appointing authority's judgment, will be fair and impartial in discharging their responsibilities. Before appointing the appeal committee, the appointing authority shall give the employee a reasonable opportunity for consultation on the matter of appointment of the appeal committee. The appeal committee shall not include the initial rater or raters. The members of the appeal committee shall be officers or employees of the agency. However, the appointing authority may select one or more members of the committee from one or more other state agencies if the appointing authority determines that the objective of a fair and impartial hearing can best be served by doing so.

(b)(1) As soon as the committee has been appointed, the appointing authority shall notify the employee of the names of the members of the committee.

(2) The appeal committee shall consider any relevant evidence that may be offered by the employee and the rater and shall make available to the employee any evidence that the committee may secure on its own initiative. The employee and rater shall have an opportunity to question any person offering evidence to the appeal committee. The appeal committee may limit the offering of evidence that it deems to be repetitious or irrelevant.

(3) Within 14 calendar days of the date the members of the committee were appointed, the committee shall prepare and sign a rating for the employee. That rating shall be final and not subject to further appeal. The appeal committee shall give the rating to the appointing authority, who, within five calendar days, shall provide copies to the employee and each person who originally rated the employee. The appeal committee shall report the rating to the director.

(4) If the appointing authority cannot appoint an appeal committee within the prescribed seven calendar days or if the appeal committee cannot make its rating within 14 calendar days of the date of its appointment, the appointing authority may extend these time limits for a reasonable period of time.

(c) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-2943, 75-3706, and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2943, 75-3707, and 75-3746; effective May 1, 1983; amended, T-84-20, July 26, 1983; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended June 5, 2005.)

### **Article 8.—TRAINING AND CAREER DEVELOPMENT**

**1-8-2. Orientation.** (a) Each appointing authority shall be responsible for establishing and maintaining a program of orientation for new employees.

(b) Each orientation shall be relevant to each of the following:

- (1) That agency's mission, vision, and goals;
- (2) the employee's job responsibilities;
- (3) employee benefits; and
- (4) other aspects of the workplace pertinent to successful performance in the position.

(c) Any agency may supplement the orientation information required above with specific agency materials.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2925 and 75-3746; effective May 1, 1979; amended, T-1-9-19-94, Sept. 19, 1994; amended, Nov. 21, 1994; amended June 5, 2005.)

**1-8-3. Training standards.** Each appointing authority shall periodically assess, identify, and provide that agency's employees with access to appropriate education and training to meet workforce development needs. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2925 and 75-3746; effective May 1, 1979; amended June 5, 2005.)

**1-8-4. Agency training records.** Each appointing authority shall maintain training records and provide these

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records to the director upon request. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2925, 75-2950, and 75-3746; effective May 1, 1979; amended June 5, 2005.)

**1-8-5.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 1995 Supp. 75-3747 and K.S.A. 1995 Supp. 75-37,115; implementing K.S.A. 1995 Supp. 75-37,115; effective May 1, 1979; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended May 31, 1996; revoked June 5, 2005.)

**1-8-6. Leadership training programs.** Each appointing authority shall develop and maintain a leadership program to provide supervisory training of an appropriate scope for each employee appointed to a supervisory position and for each employee currently working in a supervisory position in the agency. Each appointing authority shall provide access to training and opportunities for continuing education and development for each employee in a supervisory position. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747 and 75-37,115; implementing K.S.A. 75-3746 and K.S.A. 2004 Supp. 75-37,115; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended Dec. 17, 1995; amended Oct. 1, 1999; amended June 5, 2005.)

#### Article 9.—HOURS; LEAVES; EMPLOYEE-MANAGEMENT RELATIONS

**1-9-1. Hours of work.** (a) The standard workweek for each full-time employee shall be 40 hours during a given seven-day workweek.

(b)(1) Any agency head may submit a request for a deviation from the standard workweek in subsection (a) for particular classes of employees in writing to the director. Any such deviation shall be subject to approval by the secretary upon recommendation of the director.

(2) Appointing authorities shall not be required to designate a deviation from the standard workweek established in paragraph (1) of this subsection for exempt positions.

(c) It shall be a condition of employment with the state that each employee is required to work the number of hours per day and the number of days per workweek or work period specified for the employee's position, except when on authorized leave.

(d) Each exempt employee shall be paid on a salary basis in which the salary of the exempt employee is established to cover the hours required to complete the job. Each exempt employee shall be considered to be in pay status except for the following periods of time:

- (1) Full days of leave without pay;
- (2) full workweeks of leave without pay due to a suspension; or
- (3) one or more full days of leave without pay due to a suspension imposed in good faith for violation of workplace conduct rules or for an infraction of a safety rule of major significance.

Exempt employees may be required to use available vacation or sick leave or other paid leave, as appropriate, and shall be required to obtain authorization for absences in the form and at the time prescribed by the employee's appointing authority. Leave for employees in exempt positions shall be administered in accordance with the provisions of K.A.R. 1-9-20.

(e) The appointing authority may require each employee to work those hours that are necessary for the efficient conduct of the business of the state.

(f) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3746, 75-5505, and 75-5515; effective May 1, 1979; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended June 5, 2005.)

**1-9-2. Holidays.** (a) The following days shall be legal holidays for the state service: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When one of these legal holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday for state employees. When one of these legal holidays falls on a Sunday, the following Monday shall be the officially observed holiday for state employees.

(b)(1) The governor may designate, in a particular year, additional days on which state offices are to be closed in observance of a holiday or a holiday season. For the purpose of this regulation, such a day shall be deemed a legal holiday.

(2) Each full-time employee who works a nonstandard workweek shall receive the same number of holidays in a calendar year as employees whose regular work schedule is Monday through Friday.

(3) The governor may designate a discretionary holiday for observance of a holiday or other special day without closing state services. Each eligible employee shall receive the number of hours equal to the number of hours that employee is regularly scheduled to work, for a discretionary holiday. All hours for a discretionary holiday shall be taken on the same day.

(c)(1) For each holiday, each full-time employee shall receive holiday credit equal to the number of hours regularly scheduled to work, subject to the provisions of paragraph (b)(2). "Holiday credit" means pay or credit for paid time off at a straight-time rate.

(2) Each full-time employee who is required to work on a legal holiday or on an officially observed holiday shall be awarded holiday credit in addition to any holiday compensation available under subsection (d). The appointing authority shall determine whether the holiday credit will be in the form of pay or paid time off to be used at a later time.

(d) Any appointing authority may require some or all employees to work on a legal holiday, an officially observed holiday, or both.

(1) Each full-time, nonexempt employee who is required to work on a legal holiday or on an officially observed holiday shall receive holiday compensation in addition to the employee's regular pay for the pay period. "Holiday compensation" means either pay or holiday



compensatory time at a time-and-a-half rate for those hours worked on a holiday. The appointing authority shall determine whether the compensation for this holiday work will be in the form of pay or holiday compensatory time.

(2) The appointing authority shall make the following determinations for each exempt employee required to work on a holiday:

(A) Under what conditions the employee will be required to work;

(B) whether or not the employee will receive holiday pay or holiday compensatory time in addition to the employee's regular salary; and

(C) the rate at which any holiday pay or holiday compensatory time will be paid.

(3) Exempt employees shall take holiday compensatory time only in either half-day or full-day increments.

(e) Hours worked on a holiday by a nonexempt employee that result in overtime hours during that workweek or work period shall be compensated pursuant to K.A.R. 1-5-24 for those holiday hours worked on the holiday and at an additional half-time rate for the resulting overtime hours.

(f) If a legal holiday is preceded or followed by an officially observed holiday, each employee shall receive holiday credit for only one of the two days. Each full-time employee who is required to work on both the legal holiday and the officially observed holiday shall receive holiday compensation for only one of the two days. If the number of hours worked on the two days is not the same, the employee shall receive holiday compensation for the day on which the employee worked the greater number of hours.

(g) Each nonexempt employee who works less than full-time on a regular schedule shall receive, for each holiday that falls on a day included in the employee's regular work schedule, holiday credit equal to the time the employee is regularly scheduled to work on that day. If the employee works on the holiday, the employee shall receive, in addition, holiday compensation for the hours worked on the holiday.

(h) Each nonexempt employee who works less than full-time on an irregular schedule, as determined by the appointing authority, shall not receive holiday credit but shall be paid at the time-and-a-half rate for those hours worked on the holiday.

(i) An employee who is on leave without pay for any amount of time either on the last working day before a holiday or the first working day following a holiday shall not receive holiday credit, unless approved by the appointing authority.

(j) Any employee whose last day at work before separating from state service is the day before a regularly scheduled holiday shall not receive holiday credit for the holiday.

(k) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended May 1, 1985; amended Dec. 17, 1995; amended June 20, 1997; amended Oct. 1, 1999; amended June 5, 2005.)

**1-9-13. Payment for accumulated vacation leave, compensatory time, and holiday compensatory time upon separation.** Each employee who separates from state service shall be paid for that employee's accumulated vacation leave, compensatory time, and holiday compensatory time. Pay for an employee's vacation leave, compensatory time, and holiday compensatory time shall be calculated using the appropriate hourly or salary rate set forth in K.A.R. 1-5-21 and, with respect to non-exempt employees, the provisions of K.A.R. 1-5-24(e)(4). Pay for the vacation leave, compensatory time, and holiday compensatory time shall be a lump sum addition to the employee's last paycheck. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5514; implementing K.S.A. 75-3707, 75-3746, and 75-5508; effective May 1, 1979; amended May 1, 1984; amended May 1, 1985; amended, T-86-36, Dec. 11, 1985; amended, T-87-11, May 1, 1986; amended May 1, 1987; amended Feb. 1, 1993; amended Dec. 27, 1993; amended Dec. 17, 1995; amended June 20, 1997; amended June 5, 2005.)

**1-9-14. Transfer of leave credits.** When an employee is appointed to a position in a different state agency, all types of leave for which the employee has a balance at the time of the appointment, except for compensatory time credits and holiday compensatory time credits, shall be transferred with the employee. All accumulated compensatory time and holiday compensatory time shall be paid by the agency from which the employee is leaving at the time the employee leaves that agency. The accumulated compensatory time and holiday compensatory time shall be paid as a lump sum addition to the employee's last paycheck from that agency as provided in K.A.R. 1-9-13. However, upon request, an employee may transfer accumulated compensatory time and holiday compensatory time if approved by both the agency from which the employee is leaving and the agency to which the employee is going. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5514; implementing K.S.A. 75-3707, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5508; effective May 1, 1979; amended June 5, 2005.)

**1-9-19. Relief from duty or change of duties of a permanent employee.** (a) Under any of the circumstances identified in K.S.A. 75-2949(i), and amendments thereto, any appointing authority may relieve an employee from duty and place the employee on administrative leave or change the duties of the employee, pursuant to the provisions of subsections (b) and (c).

(b) If the duties of an employee are changed, the appointing authority shall notify the employee in writing of the date the duties are to be changed, the manner in which the duties are to be changed, the reason for the change, and the expected date for resumption of regular duties or other disposition of the matter. The appointing authority shall report any change in duties that lasts more than 30 days to the director.

(c) If an employee is relieved of all duties and placed on administrative leave, the appointing authority shall

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notify the employee, in writing and within seven calendar days of the date the employee was relieved from duty with pay, of the reasons for that action and either of the following:

(1) The approximate length of time that the employee is to be relieved of duties and the date by which a determination in the matter is expected; or

(2) the date on which a determination in the matter was made and either the date on which the employee is to be returned to duty or the date on which any other disposition of the matter that has been decided upon by the appointing authority is to be implemented.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-2949, K.S.A. 75-3706, and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 2004 Supp. 75-2949, K.S.A. 75-3707, and 75-3746; effective May 1, 1979; amended June 5, 2005.)

**1-9-19a. Drug screening test for certain employees.** (a) Any employee holding one of the following positions may be required to submit to a drug screening test in accordance with K.S.A. 75-4362, and amendments thereto, based upon reasonable suspicion of illegal drug use by that employee:

(1) Any safety-sensitive position;

(2) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, that is not a safety-sensitive position;

(3) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 *et seq.*, and amendments thereto;

(4) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 *et seq.*, and amendments thereto; and

(5) any employee of a state veteran's home operated by the Kansas commission on veteran's affairs, as described in K.S.A. 76-1901 *et seq.* and K.S.A. 76-1951 *et seq.*, and amendments thereto.

(b)(1) "Safety-sensitive position" shall be defined as provided by K.S.A. 75-4362(g), and amendments thereto.

(2) "Reasonable suspicion" means a judgment, supported by specific, contemporaneous, articulable facts or plausible inferences, that is made regarding the employee's behavior, appearance, or speech or supported by evidence found or reported that indicates drug use by the employee. Reasonable suspicion may be based on one or more of the following:

(A) An on-the-job accident or occurrence in which there is evidence to indicate any of the following:

(i) The accident or occurrence was in whole or in part the result of the employee's actions or inactions;

(ii) the employee exhibited behavior or in other ways demonstrated that the employee may have been using drugs or may have been under the influence of drugs; or

(iii) a combination of the factors specified in paragraphs (b)(2)(A)(i) and (ii) is present;

(B) an on-the-job incident that could be attributable to drug use by the employee, including a medical emergency;

(C) direct observation of behavior exhibited by the employee that could render the employee unable to perform the employee's job, in whole or part, or that could pose a threat to safety or health;

(D) information that has been verified by a person with the authority to determine reasonable suspicion and that indicates either of the following:

(i) The employee could be using drugs or is under the influence of drugs, and this circumstance is affecting on-the-job performance; or

(ii) the employee exhibits behavior that could render the employee unable to perform the employee's job or could pose a threat to safety or health;

(E) physical, on-the-job evidence of drug use by the employee or possession of drug paraphernalia;

(F) documented deterioration in the employee's job performance that could be attributable to drug use by the employee; and

(G) any other circumstance providing an articulable basis for reasonable suspicion.

(c) Any appointing authority may ask any employee in a position specified in subsection (a) to submit to a drug screening test under the circumstances of reasonable suspicion as a condition of employment. Refusal to comply with this requirement shall be considered the equivalent of receiving a confirmed positive result for referral or disciplinary purposes.

(d) Each employee required to submit to a drug screening test shall be notified of that requirement in writing and shall be advised of all of the following aspects of the drug screening program:

(1) The methods of drug screening that may be used;

(2) the substances that can be identified;

(3) the consequences of a refusal to submit to a drug screening test or a confirmed positive result; and

(4) the reasonable efforts to maintain the confidentiality of results and any medical information that are to be provided in accordance with subsection (k).

(e) Drug screening tests may screen for any substances listed in the Kansas controlled substances act.

(f) Any employee who has reason to believe that technical standards were not followed in deriving the employee's confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

(g) A retest by the original or a different laboratory on the same or a new specimen may be authorized by the director, if the director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or has other appropriate cause to warrant a retest.

(h) An employee who receives a confirmed positive drug screen result shall be subject to dismissal in accordance with K.S.A. 75-2949d and K.S.A. 75-4362, and amendments thereto as follows:

(1) Except as provided in paragraph (2) of this subsection, the employee shall not be subject to dismissal solely on the basis of the confirmed positive result if the employee has not previously had a confirmed positive result or the equivalent and the employee successfully completes an appropriate and approved drug assessment and recommended education or treatment program.

(2) The employee shall be subject to dismissal if the employee is a temporary employee, is in trainee status,

or is on probationary status at the time the employee is given written notice of the drug screen requirement.

(3) The employee shall be subject to dismissal in accordance with K.S.A. 75-2949f, and amendments thereto, if the employee fails to successfully complete an appropriate and approved drug assessment and recommended education and treatment program.

(4) The employee shall be subject to dismissal, in accordance with K.S.A. 75-2949f, and amendments thereto, if the employee has previously had a confirmed positive result or the equivalent.

(5) This regulation shall not preclude the appointing authority from proposing disciplinary action in accordance with K.S.A. 75-2949d, and amendments thereto, for other circumstances that occur in addition to a confirmed positive result and that are normally grounds for discipline.

(i) Each employee who intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies a test result shall be subject to dismissal pursuant to K.S.A. 75-2949f, and amendments thereto.

(j) If the result of a drug screening test warrants disciplinary action, an employee with permanent status shall be afforded due process in accordance with K.S.A. 75-2949, and amendments thereto, before any final action is taken.

(k)(1) All individual results and medical information shall be considered confidential and, in accordance with K.S.A. 75-4362, and amendments thereto, shall not be disclosed publicly. Each employee shall be granted access to the employee's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each appointing authority shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the agency's personnel officer or a designee, persons in the supervisory chain of command, the agency's legal counsel, the agency's appointing authority, the secretary of administration or a designee, the department of administration's legal counsel, and the director or a designee. Further access to these records shall not be authorized without the express consent of the director.

(l) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 2004 Supp. 75-4362; implementing K.S.A. 2004 Supp. 75-2949, K.S.A. 75-2949f, 75-3707, and K.S.A. 2004 Supp. 75-4362; effective, T-1-10-28-88, Oct. 28, 1988; effective Dec. 19, 1988; amended Feb. 19, 1990; amended April 13, 1992; amended May 31, 1996; amended Oct. 1, 1999; amended June 5, 2005.)

**1-9-20. Leave usage for exempt employees.** (a) When using available sick or vacation leave or other paid leave, as appropriate, each exempt employee shall obtain authorization for these absences in the manner prescribed by the employee's appointing authority.

(b) Each exempt employee shall follow the leave request procedures established by the employee's appointing authority for any time away from work. The employee shall obtain prior approval from the employee's supervisor for all time away from work, including periods of less than half of a day.

(c) Vacation, sick, and shared leave and holiday compensatory time shall be recorded as used only when employees in exempt positions use leave in half-day or full-day increments.

(d) Time away from work for less than half of a day shall not be accumulated over multiple days to total a half-day or full-day increment of vacation, sick, or shared leave or holiday compensatory time. However, time away from work of less than half of a day may be accumulated in the same day to total a half-day increment.

(e) A supervisor may deny the request of an exempt employee for time away from work of less than half of a day or may require the employee to use half of a day or a full day of an appropriate type of leave if the employee has abused the use of leave in less than half-day or full-day increments or if other similar circumstances exist. The employee shall not perform work before the allotted time of leave is used.

(f) Other types of leave used by employees in exempt positions, including jury duty, funeral, job injury, and disaster service leave, shall be reported in quarter-hour increments.

(g) An exempt employee shall not be suspended for a period that is less than the employee's workweek of seven consecutive 24-hour periods or multiples of this workweek, unless the suspension is imposed in good faith for either of the following conditions:

(1) for an infraction of a safety rule of major significance; or

(2) for violation of workplace conduct rules.

(h) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5507; implementing K.S.A. 75-3707, 75-3746, and 75-5507; effective May 1, 1979; amended June 5, 2005.)

**1-9-23. Shared leave.** (a)(1) Any employee in a classified, regular position or in an unclassified position that is eligible for benefits may be eligible to receive or donate shared leave as provided in this regulation.

(2) Except as provided in paragraph (d)(1)(D), shared leave may be granted to an employee if all of the following conditions are met and if the employee meets the criteria specified in paragraph (b)(1):

(A) The employee or a family member of the employee, as defined in K.A.R. 1-9-5(e)(2), is experiencing a serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition.

(B) The illness, injury, impairment, or condition of the employee or the family member has caused, or is likely to cause the employee to take leave without pay or terminate employment.

(C) The illness, injury, impairment, or condition of the employee or the family member keeps the employee from performing regular work duties.

(continued)

(b)(1) Each employee who meets the requirements of paragraph (a)(2) shall be eligible to receive shared leave if both of these conditions are met:

(A) The employee has exhausted all paid leave available for use, including vacation leave, sick leave, compensatory time, holiday compensatory time, and the employee's discretionary holiday.

(B) The employee has at least six continuous months of service, pursuant to K.A.R. 1-2-46.

(2) An employee shall be eligible to donate vacation leave or sick leave to another employee if these conditions are met:

(A) The donation of vacation leave does not cause the accumulated vacation leave balance of the donating employee to be less than 80 hours, unless the employee donates vacation leave at the time of separation from state service.

(B) The donation of sick leave does not cause the accumulated sick leave balance of the donating employee to be less than 480 hours, unless the employee donates sick leave at the time of separation from state service.

(C) If the employee is retiring from state service and receiving compensation for sick leave upon retirement, the donated sick leave consists only of the accumulated sick leave in excess of the applicable minimum accumulation amount required for eligibility for a sick leave payout in accordance with K.S.A. 75-5517, and amendments thereto.

(c)(1)(A) When requesting shared leave, an employee shall be required to provide a statement from a licensed health care provider or other medical evidence necessary to adequately establish that the illness, injury, impairment, or physical or mental condition of the employee or family member is serious, extreme, or life-threatening and keeps the employee from performing regular work duties. If the employee fails to provide the required evidence, the use of shared leave shall be denied.

(B) At any time during the use of shared leave, the appointing authority may require the employee to provide a statement from a licensed health care provider or other medical evidence necessary to establish that the illness, injury, impairment, or physical or mental condition of the employee or family member continues to be serious, extreme, or life-threatening or to establish when the employee will be able to return to work. If the employee fails to provide the required evidence, the use of shared leave may be terminated by the appointing authority.

(2)(A) The appointing authority shall determine whether or not an employee meets the initial eligibility requirements in paragraph (b)(1) and, if applicable, whether or not the employee would be caring for an individual who meets the definition of a family member.

(B) Shared leave may be denied if the appointing authority determines that the requesting employee has a history of leave abuse.

(C) Any employee who currently is receiving workers compensation for the illness, injury, impairment, or physical or mental condition that is the basis for the shared leave request or has submitted an application to the division of workers compensation for this illness, injury, impairment, or condition shall not be eligible to receive shared leave.

(d)(1)(A) A shared leave committee shall be established and coordinated by the director. The shared leave committee shall consist of three current employees in the executive branch who, in the director's judgment, have experience in making determinations regarding leave and who will be fair and impartial in discharging their responsibilities.

(B) Except as provided by paragraph (d)(2) below, once the appointing authority determines that an employee meets the eligibility requirements set out in paragraph (c)(2) above, the shared leave committee shall determine whether or not the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in paragraph (a)(2) of this regulation.

(C) If the shared leave committee determines that the illness, injury, impairment, or physical or mental condition meets the requirements of paragraph (a)(2), the appointing authority shall grant all or a portion of the time requested.

(D) An appointing authority may approve an employee's request for shared leave regardless of the determination of the shared leave committee if the appointing authority determines that such a decision would be in the best interests of the state. Before approving the request, the appointing authority shall consult with the director about the factors that the appointing authority is relying upon in making the determination that approval of the shared leave is in the best interests of the state.

(2) If the appointing authority is an elected official, the appointing authority may determine whether or not the illness, injury, impairment, or physical or mental condition of the employee or the employee's family member meets the conditions established in paragraph (a)(2) or may submit the shared leave request to the shared leave committee for determination as provided in paragraph (d)(1).

(e) Employees shall not be notified of the need for shared leave donations until the request for shared leave has been approved as provided in subsection (d). No employee shall be coerced, threatened, or intimidated into donating leave or financially induced to donate leave for purposes of the shared leave program.

(f) The records of all shared leave donations shall remain confidential.

(g)(1) Shared leave may be used only for the duration of the serious, extreme, or life-threatening illness, injury, impairment, or physical or mental condition for which it was collected. The maximum number of hours of shared leave that may be used by an employee shall be the total hours that the employee would regularly be scheduled to work during a six-month period.

(2) No employee shall be eligible to use shared leave after meeting the eligibility requirements for disability benefits under the Kansas public employees retirement system.

(3) Employees shall use shared leave in accordance with their regular work schedules.

(4) Exempt employees shall use shared leave only in half-day or full-day increments.

(h)(1) Shared leave may be applied retroactively for a maximum of two pay periods preceding the date the employee signed the shared leave request form.

(2) The employee shall no longer be eligible to receive shared leave for a particular occurrence if any of these conditions is met:

(A) The illness, injury, impairment, or condition of the employee or the employee's family member improves so that it is no longer serious, extreme, or life-threatening, and the employee is no longer prevented from performing regular work duties.

(B) The employee terminates or retires.

(C) The employee returns to work and works the employee's regular work schedule for at least 20 continuous working days.

(3) Any unused portion of the shared leave shall be prorated among all donating employees based on the original amount and type of donated leave and returned to those employees within two pay periods of the date on which it is determined that the employee receiving the donated leave is no longer eligible for shared leave. Shared leave shall not be returned to donating employees in increments of less than one full hour or to any person who has left state service.

(i)(1) Shared leave shall be paid according to the receiving employee's regular rate of pay by the receiving employee's agency. The rate of pay of the donating employee shall not be used in figuring the amount of shared leave the requesting employee receives.

(2) Shared leave shall be donated in full-hour increments.

(j) Any decision to approve or deny a request for shared leave or any other determination regarding the extension or termination of shared leave shall be final and shall not be subject to appeal to the civil service board.

(k) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5549; implementing K.S.A. 75-3707, 75-3746, and 75-5549; effective, T-1-7-23-92, July 23, 1992; effective Sept. 14, 1992; amended July 26, 1993; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended Dec. 17, 1995; amended May 31, 1996; amended Sept. 18, 1998; amended, T-1-2-17-00, Feb. 17, 2000; amended June 16, 2000; amended June 5, 2005.)

**1-9-27.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 1996 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 31, 1996; amended June 20, 1997; revoked June 5, 2005.)

#### Article 10.—GUIDANCE AND DISCIPLINE

**1-10-6.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-2949d and 75-2944; effective, E-82-14, July 1, 1981; effective May 1, 1982; amended Dec. 27, 1993; amended May 31, 1996; amended Sept. 18, 1998; revoked June 5, 2005.)

**1-10-7.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 1996 Supp. 75-3747; implementing K.S.A. 75-2949; effective, E-82-14, July 1, 1981; effective May 1, 1982; amended Oct. 24, 1997; revoked June 5, 2005.)

**1-10-10.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999; revoked June 5, 2005.)

**1-10-11.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999; revoked June 5, 2005.)

#### Article 11.—NONDISCIPLINARY TERMINATION

**1-11-1. Resignation.** (a) Each employee wishing to resign in good standing shall file with the appointing authority, at least two weeks before the employee's last day at work, a written resignation stating the date it will become effective and the reasons for leaving. If the employee fails to give the required written notice of resignation as specified in this subsection, the appointing authority may have a statement concerning this failure inserted in the employee's official personnel record. Any appointing authority may consider the fact that a person did not give the required notice when the person resigned from earlier employment with the state to be grounds for refusal to employ that person.

(b) With the approval of the appointing authority, an employee may withdraw a resignation.

(c) An appointing authority may consider any unauthorized absence from work for a period of five consecutive working days for which the employee does not provide a satisfactory explanation to be abandonment of the job and a presumed resignation. Before terminating an employee for a presumed resignation, the appointing authority shall make a reasonable effort to obtain a satisfactory explanation from the employee.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706 and K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended May 1, 1985; amended May 31, 1996; amended June 7, 2002; amended June 5, 2005.)

**1-11-3.** This regulation shall be revoked on and after June 5, 2005. (Authorized by K.S.A. 75-3747; effective May 1, 1979; revoked June 5, 2005.)

#### Article 12.—GRIEVANCES AND APPEALS

**1-12-1. Grievance procedure.** Each appointing authority shall establish in writing a grievance procedure for its employees. The availability to, or the use of, a grievance procedure by an employee shall not preclude the employee's use of appropriate appeal procedures that are available to the employee in the civil service act or these regulations. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended June 5, 2005.)

**1-12-2. Agency appeals.** Any appointing authority may appeal any final decision of the director of personnel  
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services to the secretary of administration by filing a written notice of appeal with the secretary, signed by the appointing authority, with a copy to the director. Each notice of appeal shall state in clear and concise language the final decision of the director that is the subject of the appeal and the grounds upon which the appeal is based. The notice of appeal shall be delivered to the secretary's office or mailed to the secretary within 10 working days of the date on which the final decision becomes effective. The day and hour for hearing the appeal shall then be set by the secretary. The appeal shall be conducted informally. Both the appellant and the director may be present in person or by counsel, and both may present evidence and argument. A timely disposition of the appeal shall be made by the secretary. A copy of the secretary's decision shall be provided to the appointing authority and the director by the secretary. The filing of a notice of appeal or the pendency of an appeal shall not suspend the final decision from which the appeal is taken. This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended June 5, 2005.)

#### **Article 13.—RECORDS, REPORTS, RESEARCH, AND EVALUATION OF PERSONNEL SYSTEM**

**1-13-1a. Content of employees' official personnel records.** (a) The official personnel record of each state employee shall include the following information:

- (1) Records showing the employee's hires, transfers, promotions, demotions, separations, changes of pay rates, leaves of absence, and any other changes in employment status;
- (2) performance reviews, letters of reprimand and letters of rebuttal, and letters of commendation;
- (3) the application for each position for which the employee was hired;
- (4) letters of disciplinary action; and
- (5) any other information related to state service that the appointing authority deems appropriate.

(b) The records specified in subsection (a) may be maintained in paper or electronic form or by using other appropriate media.

(c) The official personnel record of each state employee shall be transferred with the employee if the employee is appointed to a position in another agency.

(d) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2950, and K.S.A. 75-3746; effective May 1, 1983; amended Dec. 27, 1993; amended Dec. 17, 1995; amended May 31, 1996; amended June 20, 1997; amended June 5, 2005.)

**1-13-1b. Disclosure of employee information.** (a) Except as otherwise provided in this regulation and the Kansas open records act, K.S.A. 45-215 *et seq.* and amendments thereto, the information contained in each state employee's official personnel record shall not be open to public inspection.

(b) Upon any inquiry, the appointing authority shall disclose the following information concerning any current or former employee:

- (1) The name of the employee;

- (2) the employee's current job title;
- (3) the employee's current or prior pay; and
- (4) the employee's length of employment with the state;
- (5) the name of the employing agency; and
- (6) the length of time the employee has served in the employee's current position.

(c) When appropriate personnel from one of the following agencies, in carrying forth their official duties, establish a need for information contained in an employee's official personnel record, the appropriate personnel from these agencies shall be permitted to access the other employee's personnel record:

- (1) The Kansas department of administration;
- (2) the Kansas attorney general's office, including the Kansas bureau of investigation;
- (3) the federal equal employment opportunity commission and the Kansas human rights commission;
- (4) the Kansas civil service board;
- (5) legislative post audit;
- (6) the agency employing that employee; and
- (7) employees of the Kansas department of social and rehabilitation services responsible for that agency's child support enforcement activities.

(d) Any current or former employee, or any other individual or an organization if authorized in writing by the current or former employee, may review that employee's official personnel record upon written request to the appointing authority. The appointing authority shall place in the employee's personnel record a copy of the written request and the written authorization from the employee. The review shall be consistent with the conditions established by the appointing authority and at a time and place mutually convenient to the parties.

(e)(1) Any appointing authority with an established need to review the personnel record of an employee in another state agency may, upon request to the appointing authority of the employing agency, review the employee's official personnel record, including applications for employment and performance reviews.

(2) Each appointing authority responding to job-related reference and performance questions from another state agency shall answer the questions in good faith.

(3) If a prospective employer, other than another state agency, requests information about a current or former state employee as part of a reference check, the response of the appointing authority shall be consistent with the requirements of K.S.A. 44-119a, and amendments thereto.

(f) The official personnel record of any specifically named employee shall be made available for inspection in connection with litigation, pursuant to the terms of an order entered by a judge of any federal, state, or municipal court having proper jurisdiction over the litigation.

(g) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2950 and 75-3746; effective June 5, 2005.)

#### **Article 14.—LAYOFF PROCEDURES AND ALTERNATIVES TO LAYOFF**

**1-14-8. Computation of layoff scores.** (a) A layoff score shall be computed by the appointing authority for

each employee in the agency who has permanent status and who is in a class of positions identified for layoff or that may be affected by the exercise of bumping rights.

(b) Layoff scores shall be computed according to the formula:  $A \times L$ , where A and L have the following values:

(1) A = the average performance review rating of the employee, as described in subsection (d); and

(2) L = the length of service, as defined in K.A.R. 1-2-46(a), expressed in months.

Length of service for a retired employee who has returned to work shall be calculated on the same basis as a new hire. The layoff scores shall be prepared in accordance with a uniform score sheet prescribed by the director.

(c) Layoff scores computed by the appointing authority shall be made available for inspection by each employee upon request at or before the time the agency gives written notice of a proposed layoff to the director and the secretary pursuant to K.A.R. 1-14-7. Upon request of any employee, the appointing authority shall review the manner in which the employee's score was calculated. Any dispute as to the proper calculation of a layoff score of any employee shall be resolved by the director.

(d) Except as otherwise authorized by this subsection, the performance review ratings used in computing the layoff score of an employee shall be the most recent ratings for the employee during the last five years up to and including five ratings, if the employee has as many as five ratings. However, a rating resulting from a special performance review that is given for a rating period ending within 90 calendar days of any notice of the layoff to the director shall not be counted. Performance reviews completed for rating periods ending on or after the date the appointing authority notifies the director in writing that a layoff is to occur shall not be considered in computing layoff scores; however, the appointing authority may designate a uniform earlier cutoff date to identify which performance review ratings are to be used in computing layoff scores.

(1) For the purposes of calculating layoff scores in accordance with the formula established in subsection (b), a rating of exceptional shall have a value of five, a rating of satisfactory shall have a value of three, and a rating of unsatisfactory shall have a value of zero.

(2) If an employee does not have a total of five performance review ratings for use in computation of a layoff score, the layoff score shall be an average of the ratings that the employee has actually received.

(3) If an employee has no performance review ratings that may be used to compute a layoff score, the employee shall be deemed to have been given a single performance review rating of satisfactory, and the value of that rating shall be used to compute a layoff score. New hires and rehires employed on a basis other than reinstatement who are on probation and employees in training classes shall be subject to subsections (e), (f), and (g).

(4) In case of identical layoff scores, and if some, but not all, of the persons with the same score need to be laid off, preference among these persons shall be given to any veteran, any surviving spouse of a veteran, and any orphan of a veteran, in that order. For the purpose of this

regulation, the following terms shall be defined as follows:

(A) "Person who served in the armed forces of the United States" means any person who served in the army, navy, air force, or marine corps of the United States in world war I or world war II, and any person who served with the armed forces of the United States during the military, naval, and air operations in Korea, Vietnam, or other places under the flags of the United States and the United Nations or under the flag of the United States alone.

(B) "Veteran" means any person who served in the armed forces of the United States and who was honorably discharged or discharged under honorable conditions from the armed forces.

(C) "Surviving spouse" means the spouse of a person who served in the armed forces of the United States and who died while in the U.S. armed forces, unless the spouse has remarried.

(D) "Orphan" means a minor who is the child of a person who served in the armed forces of the United States and who died while serving in the U.S. armed forces.

If further ties remain, a method of breaking the ties shall be established by the secretary that is consistent with agency affirmative action goals and timetables for addressing underutilization of persons in protected groups. If further ties remain, preference in retention shall be given to the person with the greatest length of service as defined in K.A.R. 1-2-46. If a tie still exists, the next preference shall be given to the person with the greatest length of service, as defined in K.A.R. 1-2-46, within that agency. If a tie still exists, the appointing authority shall be responsible for determining an equitable tie-breaking system.

(e) New hires and rehires on probation shall not be granted permanent status on or after the date the appointing authority has notified the director of a proposed layoff. However, any new hire or rehire on probation in a position for which no employee subject to layoff meets the required selection criteria may be given permanent status. New hires and rehires on probation shall have their probationary period extended until it is certain that no employee with permanent status whose position is to be vacated by layoff or who otherwise would be laid off through the exercise of bumping rights is claiming the position held by the employee with probationary status.

(f) Any employee serving a probationary period as a result of one of the following shall be considered to have permanent status for layoff purposes:

(1) Promotion of an employee who has permanent status;

(2) reallocation of a position if the incumbent has permanent status; or

(3) promotion from a classified position with at least six months of continuous classified service.

(g) Any employee who is in training status on in a governor's trainee position, or in any identified training position, and who has at least six months of continuous service shall be considered to have permanent status for layoff purposes only.

*(continued)*

(h) The layoff list shall be based on the order of the layoff scores. The person with the lowest layoff score shall be laid off first. If more than one person is to be laid off, the persons to be laid off shall be selected on the basis of the lowest layoff scores.

(i) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 2004 Supp. 75-3747; implementing K.S.A. 75-2943 and 75-2948; effective May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 27, 1993; amended Dec. 17, 1995; amended June 5, 2005.)

**1-14-11. Furlough leave without pay.** (a) If an appointing authority desires to deviate from the standard workweek as provided in K.A.R. 1-9-1 in order to implement a furlough plan, the appointing authority shall implement the plan in accordance with this regulation.

(b) In accordance with subsection (c) of this regulation, if an appointing authority deems it necessary by reason of shortage of funds, the appointing authority may furlough without pay all employees in the classified service in designated classes, organizational units, geographical areas, or any combination of those groups unless specific funding sources necessitate exceptions. "Furlough" shall be defined as leave without pay for a preset number of hours during each pay period covered by the furlough plan. An employee's social security and retirement contributions shall be affected under a furlough, but all other benefits, including the accrual of vacation and sick leave, shall continue, notwithstanding other regulations to the contrary. A furlough shall not affect the employee's continuous service, length of service, pay increase anniversary date, or eligibility for authorized holiday leave or pay.

(c) At least 30 calendar days before the date a furlough is to be implemented, the appointing authority shall prepare a furlough plan specifying the following information:

- (1) The cause of the funding shortage;
- (2) the effective date of the furlough and the date on which the furlough is to end;
- (3) the methods for notifying the affected employees;
- (4) the amount of advance notice that will be given to affected employees, which shall not be less than 10 calendar days;
- (5) the estimated cost savings;
- (6) each class, organizational unit, or geographical area to be affected;
- (7) the criteria used to select each class, organizational unit, or geographical area to be included in the furlough;
- (8) any exceptions to the furlough plan based on funding sources; and
- (9) the number of hours by which the workweek will be reduced, including separate categories detailing the proposed reduction in hours by standardized increments for exempt and nonexempt employees.

(d) A copy of each furlough plan prepared in accordance with subsection (c) shall be submitted to the director at least 30 days before the date the furlough is to be implemented.

(e) In no case shall this regulation be used as a disciplinary action against an employee.

(f) This regulation shall be effective on and after June 5, 2005. (Authorized by K.S.A. 75-3706, K.S.A. 2004 Supp. 75-3747, and K.S.A. 75-5514; implementing K.S.A. 75-3707, 75-3746, and 75-5505; effective, T-88-5, Feb. 11, 1987; effective, T-89-1, May 1, 1988; effective Oct. 1, 1988; amended May 31, 1996; amended June 5, 2005.)

Duane A. Goossen  
Secretary of Administration

Doc. No. 031920

State of Kansas

Secretary of State

Certification of New State Laws

I, Ron Thornburgh, Secretary of State of the State of Kansas, do hereby certify that each of the following bills is a correct copy of the original enrolled bill now on file in my office.

Ron Thornburgh  
Secretary of State

(Published in the Kansas Register May 19, 2005.)

HOUSE Substitute for SENATE BILL No. 273

AN ACT concerning the effective date of 2005 Senate Bill No. 225; amending section 198 of 2005 Senate Bill No. 225 and repealing the existing section.

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

Section 1. Section 198 of 2005 Senate Bill No. 225 is hereby amended to read as follows: Sec. 198. This act shall take effect and be in force from and after July 1, 2005, or the date upon which the omnibus reconciliation spending limit bill of the 2005 regular session of the legislature becomes effective, whichever is later, and its publication in the Kansas register.

Sec. 2. Section 198 of 2005 Senate Bill No. 225 is hereby repealed.

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

(Published in the Kansas Register May 19, 2005.)

HOUSE BILL No. 2308

AN ACT concerning property taxation; relating to homestead property tax refunds; income determination; personal property tax reporting errors, refund authority of county, notification, relation to income tax deductions and credits; certification of assessed valuation of certain public utility property; exemptions; amending K.S.A. 79-5a27 and K.S.A. 2004 Supp. 79-201a, as amended by section 42 of 2005 House Bill No. 2247, and 79-4502 and repealing the existing sections.

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

Section 1. K.S.A. 2004 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief ~~;~~ not including any refund granted under this act~~),~~ the gross amount of any pension or annuity ~~;~~ including all monetary retirement benefits from whatever source derived, including but not limited to, *all payments received under the railroad retirement benefits act, except disability payments and all payments received under the federal social security act except disability pay-*



ments, and veterans disability pensions), all dividends and interest from whatever source derived not included in adjusted gross income, workers compensation and the gross amount of "loss of time" insurance. *Income* does not include gifts from nongovernmental sources or surplus food or other relief in kind supplied by a governmental agency, nor shall net operating losses and net capital losses be considered in the determination of income. *Income does not include veterans disability pensions.*

(b) "Household" means a claimant, a claimant and spouse who occupy the homestead or a claimant and one or more individuals not related as husband and wife who together occupy a homestead.

(c) "Household income" means all income received by all persons of a household in a calendar year while members of such household.

(d) "Homestead" means the dwelling, or any part thereof, whether owned or rented, which is occupied as a residence by the household and so much of the land surrounding it, as defined as a home site for ad valorem tax purposes, and may consist of a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built or a manufactured home or mobile home and the land upon which it is situated. "Owned" includes a vendee in possession under a land contract, a life tenant, a beneficiary under a trust and one or more joint tenants or tenants in common.

(e) "Claimant" means a person who has filed a claim under the provisions of this act and was, during the entire calendar year preceding the year in which such claim was filed for refund under this act, except as provided in K.S.A. 79-4503, and amendments thereto, both domiciled in this state and was: (1) A person having a disability; (2) a person who is 55 years of age or older or (3) a person other than a person included under (1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year immediately preceding the year in which a claim is filed under this act.

When a homestead is occupied by two or more individuals and more than one of the individuals is able to qualify as a claimant, the individuals may determine between them as to whom the claimant will be. If they are unable to agree, the matter shall be referred to the secretary of revenue whose decision shall be final.

(f) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1979 or any calendar year thereafter by the state of Kansas and the political and taxing subdivisions of the state. When a homestead is owned by two or more persons or entities as joint tenants or tenants in common and one or more of the persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant's household. For purposes of this act, property taxes are "levied" when the tax roll is delivered to the local treasurer with the treasurer's warrant for collection. When a claimant and household own their homestead part of a calendar year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied as a homestead by the claimant's household at the time of the levy, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead in the year. When a household owns and occupies two or more different homesteads in the same calendar year, property taxes accrued shall be the sum of the taxes allocable to those several properties while occupied by the household as its homestead during the year. Whenever a homestead is an integral part of a larger unit such as a multi-purpose or multi-dwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value. For the purpose of this act, the word "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

(g) "Disability" means:

(1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which

can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(h) "Blindness" means central visual acuity of  $\frac{20}{200}$  or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of  $\frac{20}{200}$  or less.

(i) "Rent constituting property taxes accrued" means 20% of the gross rent actually paid in cash or its equivalent in 1979 or any taxable year thereafter by a claimant and claimant's household solely for the right of occupancy of a Kansas homestead on which ad valorem property taxes were levied in full for that year. When a household occupies two or more different homesteads in the same calendar year, rent constituting property taxes accrued shall be computed by adding the rent constituting property taxes accrued for each property rented by the household while occupied by the household as its homestead during the year.

(j) "Gross rent" means the rental paid at arm's length solely for the right of occupancy of a homestead or space rental paid to a landlord for the parking of a mobile home, exclusive of charges for any utilities, services, furniture and furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether or not expressly set out in the rental agreement. Whenever the director of taxation finds that the landlord and tenant have not dealt with each other at arms length and that the gross rent charge was excessive, the director may adjust the gross rent to a reasonable amount for the purposes of the claim.

Sec. 2. K.S.A. 79-5a27 is hereby amended to read as follows: 79-5a27. On or before June 15, 1989, and on or before June 15 each year thereafter, the director of property valuation shall certify to the county clerk of each county the amount of assessed valuation apportioned to each taxing unit therein for properties valued and assessed under K.S.A. 79-5a01 et seq., and amendments thereto. The county clerk shall include such assessed valuations in the applicable taxing districts with all other assessed valuations in those taxing districts and on or before July 1 notify the appropriate officials of each taxing district within the county of the assessed valuation estimates to be utilized in the preparation of budgets for ad valorem tax purposes. If in any year the county clerk has not received the applicable valuations from the director of property valuation, the county clerk shall use the applicable assessed valuations of the preceding year as an estimate for such notification. *If the public utility has filed an application for exemption of all or a portion of its property, the county clerk shall not include such assessed valuation in the applicable taxing districts until such time as the application is denied by the state board*

(continued)

of tax appeals or, if judicial review of the board's order is sought, until such time as judicial review is finalized.

New Sec. 3. Notwithstanding any provision of law to the contrary, if a taxpayer discovers that, the retail cost when new of personal property reported to the county appraiser pursuant to K.S.A. 79-306, and amendments thereto, for tax year 1999, is erroneous and the statutory time for requesting the correction of such error has expired, within 60 days of the effective date of this act, the taxpayer may petition the board of county commissioners, who upon a majority vote, may order the correction of such error and order the refund of that portion of the taxes that were collected on the basis of such error. No interest shall be paid on any refund made as a result of the provisions of this section. A board of county commissioners which orders a correction and refund of taxes pursuant to this section, shall notify the secretary of revenue of the Kansas department of revenue of such action of the board within 30 days of taking such action.

New Sec. 4. Notwithstanding the statute of limitations provisions in K.S.A. 79-3230, and amendments thereto, any taxpayer receiving a refund of property taxes pursuant to section 3, after having claimed any income tax business expense deductions or income tax credits with respect to any amount of such refunded property taxes, shall file amended returns for any tax years in which such deductions or credits were claimed. Such taxpayer shall be liable for any additional income tax owed on such amended returns. Nothing in this section shall allow the filing of an amended return for any purpose other than that specifically provided for in this section.

Sec. 5. On and after July 1, 2005, K.S.A. 2004 Supp. 79-201a, as amended by section 42 of 2005 House Bill No. 2247, is hereby amended to read as follows: 79-201a. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas ~~unless otherwise more specifically provided:~~

*First.* All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

*Second.* All property used exclusively by the state or any municipality or political subdivision of the state. All property owned, being acquired pursuant to a lease-purchase agreement or operated by the state or any municipality or political subdivision of the state, including property which is vacant or lying dormant, which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be used exclusively by the state, municipality or political subdivision for the purposes of this section. The lease by a municipality or political subdivision of the state of any real property owned or being acquired pursuant to a lease-purchase agreement for the purpose of providing office space necessary for the performance of medical services by a person licensed to practice medicine and surgery or osteopathic medicine by the board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto, dentistry services by a person licensed by the Kansas dental board pursuant to K.S.A. 65-1401 et seq., and amendments thereto, optometry services by a person licensed by the board of examiners in optometry pursuant to K.S.A. 65-1501 et seq., and amendments thereto, or K.S.A. 74-1501 et seq., and amendments thereto, podiatry services by a person licensed by the board of healing arts pursuant to K.S.A. 65-2001 et seq., and amendments thereto, or the practice of psychology by a person licensed by the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 et seq., and amendments thereto, shall be construed to be a governmental function, and such property actually and regularly used for such purpose shall be deemed to be used exclusively for the purposes of this paragraph. The lease by a municipality or political subdivision of the state of any real property, or portion thereof, owned or being acquired pursuant to a lease-purchase agreement to any entity for the exclusive use by it for an exempt purpose, including the purpose of displaying or exhibiting personal property by a museum or historical society, if no portion of the lease payments

include compensation for return on the investment in such leased property shall be deemed to be used exclusively for the purposes of this paragraph. All property leased, other than property being acquired pursuant to a lease-purchase agreement, to the state or any municipality or political subdivision of the state by any private entity shall not be considered to be used exclusively by the state or any municipality or political subdivision of the state for the purposes of this section except that the provisions of this sentence shall not apply to any such property subject to lease on the effective date of this act until the term of such lease expires but property taxes levied upon any such property prior to tax year 1989, shall not be abated or refunded. Any property constructed or purchased with the proceeds of industrial revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-1740 to 12-1749, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, or any property improved, purchased, constructed, reconstructed or repaired with the proceeds of revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, or any property improved, reimproved, reconstructed or repaired with the proceeds of revenue bonds issued after July 1, 1963, under the authority of K.S.A. 13-1238 to 13-1245, inclusive, which had previously been improved, reconstructed or repaired with the proceeds of revenue bonds issued under such act on or before July 1, 1963, shall be exempt from taxation for so long as any of the revenue bonds issued to finance such construction, reconstruction, improvement, repair or purchase shall be outstanding and unpaid. Any property constructed or purchased with the proceeds of any revenue bonds authorized by K.S.A. 13-1238 to 13-1245, inclusive, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued on or after July 1, 1963, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property, all or any portion of which is constructed or purchased with the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, ~~and prior to the effective date of this act~~ shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after July 1, 1981, ~~and prior to the effective date of this act~~ under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 1981, ~~and prior to the effective date of this act~~ under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments thereto. ~~Any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after the effective date of this act under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from all property or ad valorem taxes levied except the ad valorem tax levied by a school district pursuant to K.S.A. 72-6431, and amendments thereto. All such property shall be exempt from taxation to the extent herein provided only for a period of 10 calendar years after the calendar year in which the bonds were issued. Such exemption shall terminate upon the failure to pay all taxes levied upon the property, and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and~~

amendments thereto. Any property constructed or purchased in part with the proceeds of revenue bonds issued on or after the effective date of this act under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, to the extent of the value of that portion of the property financed by the revenue bonds, shall be exempt from all property or ad valorem taxes levied, except the ad valorem tax levied by a school district pursuant to K.S.A. 72-6431, and amendments thereto. All such property to the extent herein provided shall be exempt from taxation to the extent herein provided only for a period of 10 calendar years after the calendar year in which the bonds were issued. Such exemption shall terminate upon the failure to pay all taxes levied on the property, and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 et seq., and amendments thereto. Property constructed or purchased in whole or in part with the proceeds of revenue bonds issued on or after January 1, 1995, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, and used in any retail enterprise identified under the standard industrial classification codes, major groups 52 through 59, inclusive, except facilities used exclusively to house the headquarters or back office operations of such retail enterprises identified thereunder, shall not be exempt from taxation. For the purposes of the preceding provision "standard industrial classification code" means a standard industrial classification code published in the Standard Industrial Classification manual, 1987, as prepared by the statistical policy division of the office of management and budget of the office of the president of the United States. "Headquarters or back office operations" means a facility from which the enterprise is provided direction, management, administrative services, or distribution or warehousing functions in support of transactions made by the enterprise. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 et seq., and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq., shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation.

*Third.* All works, machinery and fixtures used exclusively by any rural water district or township water district for conveying or production of potable water in such rural water district or township water district, and all works, machinery and fixtures used exclusively by any entity which performed the functions of a rural water district on and after January 1, 1990, and the works, machinery and equipment of which were exempted hereunder on March 13, 1995.

*Fourth.* All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any rural fire district, township fire district, town, city or village, or to any fire company organized therein or therefor.

*Fifth.* All property, real and personal, owned by county fair associations organized and operating under the provisions of K.S.A. 2-125 et seq., and amendments thereto.

*Sixth.* Property acquired and held by any municipality under the municipal housing law (K.S.A. 17-2337 et seq.) and amendments thereto, except that such exemption shall not apply to any portion of

the project used by a nondwelling facility for profit making enterprise.

*Seventh.* All property of a municipality, acquired or held under and for the purposes of the urban renewal law (K.S.A. 17-4742 et seq.) and amendments thereto except that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

*Eighth.* All property acquired and held by the Kansas armory board for armory purposes under the provisions of K.S.A. 48-317, and amendments thereto.

*Ninth.* All property acquired and used by the Kansas turnpike authority under the authority of K.S.A. 68-2001 et seq., and amendments thereto, K.S.A. 68-2030 et seq., and amendments thereto, K.S.A. 68-2051 et seq., and amendments thereto, and K.S.A. 68-2070 et seq., and amendments thereto.

*Tenth.* All property acquired and used for state park purposes by the Kansas department of wildlife and parks.

*Eleventh.* The state office building constructed under authority of K.S.A. 75-3607 et seq., and amendments thereto, and the site upon which such building is located.

*Twelfth.* All buildings erected under the authority of K.S.A. 76-6a01 et seq., and amendments thereto, and all other student union buildings and student dormitories erected upon the campus of any institution mentioned in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit corporation.

*Thirteenth.* All buildings, as the same is defined in subsection (c) of K.S.A. 76-6a13, and amendments thereto, which are erected, constructed or acquired under the authority of K.S.A. 76-6a13 et seq., and amendments thereto, and building sites acquired therefor.

*Fourteenth.* All that portion of the waterworks plant and system of the city of Kansas City, Missouri, now or hereafter located within the territory of the state of Kansas pursuant to the compact and agreement adopted by K.S.A. 79-205, and amendments thereto.

*Fifteenth.* All property, real and personal, owned by a groundwater management district organized and operating pursuant to K.S.A. 82a-1020, and amendments thereto.

*Sixteenth.* All property, real and personal, owned by the joint water district organized and operating pursuant to K.S.A. 80-1616 et seq., and amendments thereto.

*Seventeenth.* All property, including interests less than fee ownership, acquired for the state of Kansas by the secretary of transportation or a predecessor in interest which is used in the administration, construction, maintenance or operation of the state system of highways, regardless of how or when acquired.

*Eighteenth.* Any building used primarily as an industrial training center for academic or vocational education programs designed for and operated under contract with private industry, and located upon a site owned, leased or being acquired by or for an area vocational school, an area vocational-technical school, a technical college, or a community college, as defined by K.S.A. 72-4412, and amendments thereto, and the site upon which any such building is located.

*Nineteenth.* For all taxable years commencing after December 31, 1997, all buildings of an area vocational school, an area vocational-technical school, a technical college or a community college, as defined by K.S.A. 72-4412, and amendments thereto, which are owned and operated by any such school or college as a student union or dormitory and the site upon which any such building is located.

*Twentieth.* For all taxable years commencing after December 31, 1997, all personal property which is contained within a dormitory that is exempt from property taxation and which is necessary for the accommodation of the students residing therein.

Except as otherwise specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 2000.

(continued)

Sec. 6. K.S.A. 79-5a27 and K.S.A. 2004 Supp. 79-4502 are hereby repealed.

Sec. 7. On and after July 1, 2005, K.S.A. 2004 Supp. 79-201a, as amended by section 42 of 2005 House Bill No. 2247, is hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 19, 2005.)

### SENATE BILL No. 118

AN ACT concerning state procurement; relating to state purchase of products from certain qualified vendors; definitions; amending K.S.A. 75-3317, 75-3319, 75-3321 and 75-3322 and K.S.A. 2004 Supp. 75-3320 and repealing the existing sections.

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

Section 1. K.S.A. 75-3317 is hereby amended to read as follows: 75-3317. As used in K.S.A. 75-3317 through 75-3322, and amendments thereto, unless the context requires otherwise:

(a) "Director of purchases" means the director of purchases of the department of administration;

(b) "~~Kansas industries for the blind division and rehabilitation services~~" means workshops and home industry projects for blind or other handicapped persons which are located in Kansas and which are supported, operated or supervised by the division of services for the blind or rehabilitation services of the department of social and rehabilitation services "qualified vendor" means a not-for-profit entity incorporated in the state of Kansas that:

- (1) Primarily employs the blind or disabled;
- (2) is operated in the interest of and for the benefit of the blind or persons with other severe disabilities, or both;
- (3) the net income of such entity shall not, in whole or any part, financially benefit any shareholder or other individual; and
- (4) such qualified vendor's primary purpose shall be to provide employment for persons who are blind or have other severe disabilities;

(c) "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(d) "~~rehabilitation facility~~" means any community mental health center or community facility for the mentally retarded operating under K.S.A. 19-4001 et seq. and amendments thereto or nonprofit corporation contracting with a mental retardation governing board to provide services under K.S.A. 19-4001 et seq. and amendments thereto, which has registered with the secretary of social and rehabilitation services for the purposes of K.S.A. 75-3317 through 75-3322, and amendments thereto, and shall also mean the Kansas foundation for the blind, Wichita, Kansas, center industries, inc., Wichita, Kansas, and, upon registration hereunder, any workshop or other facility for blind or other handicapped persons which is located in Kansas and which is certified to the United States department of labor and licensed by the secretary of social and rehabilitation services as a sheltered workshop under K.S.A. 75-3307b and amendments thereto. "Unified school district" means any unified school district, board of education or any purchasing cooperative formed by one or more unified school districts.

Sec. 2. K.S.A. 75-3319 is hereby amended to read as follows: 75-3319. (a) The director of purchases shall ~~determine fair market, approve~~ prices of products manufactured, or processed, and offered for sale and of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, by ~~the Kansas industries for the blind division and rehabilitation services and by each rehabilitation facility qualified vendors.~~ All of the products and services shall be standard conforming. Those products and services offered for pur-

chase by or for a state agency shall meet specifications required by the director of purchases. Those products offered for purchase by or for a unified school district shall meet specifications required by the board of education of the unified school district. The director of purchases shall revise the prices determined under this section from time to time in accordance with changing market conditions.

(b) Each ~~rehabilitation facility~~ qualified vendor shall cooperate with and shall provide the director of purchases ~~and the secretary of social and rehabilitation services~~ with all information necessary for the administration of K.S.A. 75-3317 through 75-3322, and amendments thereto.

(c) The provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, shall apply only to products manufactured or processed in Kansas or services provided in Kansas ~~by blind or other handicapped persons by a qualified vendor.~~

(d) The provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto, shall not be construed to require a unified school district to purchase services offered by ~~blind or other handicapped persons~~ qualified vendors under this act.

Sec. 3. K.S.A. 2004 Supp. 75-3320 is hereby amended to read as follows: 75-3320. (a) ~~The secretary of social and rehabilitation services~~ qualified vendors shall furnish to the ~~department of administration~~ director of purchases, and to each person or officer authorized to purchase materials, services and supplies for any state agency or unified school district, a list of products manufactured, or processed and offered for sale and of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, by ~~the Kansas industries for the blind division and rehabilitation services and by rehabilitation facilities~~ qualified vendors.

(b) ~~The list of products and services shall be certified by the director of purchases. The secretary of social and rehabilitation services shall list of products and services shall be certified by the director of purchases, who may amend such list from time to time in accordance with the recommendations of the director of purchases.~~

(c) ~~The secretary of social and rehabilitation services may charge a reasonable publication fee to those rehabilitation facilities which advertise their products or services on such lists. The secretary of social and rehabilitation services shall remit all moneys 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 social welfare fund. Each qualified vendor shall submit to, the director of purchases, state agencies and unified school districts a list of the products manufactured or processed and of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto.~~

(c) Each qualified vendor shall publish or cause to be published, a catalog of approved products manufactured or processed and of services offered under K.S.A. 75-3317 through 75-3322, and amendments thereto, by each such vendor.

(d) It shall be the responsibility of the qualified vendors to provide appropriate notice to state agencies and unified school districts of the addition or deletion of any product or service provided by a qualified vendor after the publication of the catalog, provided the additional product or service has been approved by the director of purchases.

Sec. 4. K.S.A. 75-3321 is hereby amended to read as follows: 75-3321. The director of purchases and any person or officer authorized to purchase materials and, supplies and services for any state agency or unified school district ~~or to purchase services for any state agency~~ shall purchase, except as otherwise provided in this section, the products and services on the list certified by the director of purchases from ~~the Kansas industries for the blind division and rehabilitation services or from a rehabilitation facility~~ qualified vendors, when those products are to be procured by or for the state or unified school district or when those services are to be procured by or for the state. Services offered for purchase are not required to be purchased by a unified school district.

Sec. 5. K.S.A. 75-3322 is hereby amended to read as follows: 75-3322. Whenever the ~~Kansas industries for the blind division and rehabilitation services and rehabilitation facilities~~ *qualified vendors* are unable to supply the products or services needed or are unable to meet delivery requirements on any order or requisition, a written waiver shall immediately be forwarded to the director of purchases *by the state agency procurement officer* or purchasing officer of the unified school district ~~by the secretary of social and rehabilitation services or the secretary's designee~~. *If approved by the director of purchases and that such* waiver shall relieve and exempt the state or unified school district purchasing authority from the mandatory provisions of K.S.A. 75-3317 to 75-3322, inclusive, and amendments thereto, in the case of the specific order, request or requisition.

Sec. 6. K.S.A. 75-3317, 75-3319, 75-3321 and 75-3322 and K.S.A. 2004 Supp. 75-3320 are hereby repealed.

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

(Published in the Kansas Register May 19, 2005.)

### SENATE BILL No. 43

AN ACT concerning education; concerning school finance; concerning certain funds and the use of revenue therein; concerning persons preparing to teach in schools; concerning litigation relating to school finance; amending K.S.A. 8-272, 72-6405, 72-6433, 72-6438, 74-32,101 and 74-32,102 and K.S.A. 2004 Supp. 60-2102 and 72-6407; also repealing K.S.A. 72-6405, as amended by section 44 of 2005 House Bill No. 2247, 72-6433, as amended by section 23 of 2005 House Bill No. 2247, 74-32,101 as amended by section 11 of 2005 Senate Bill No. 48, and 74-32,102, as amended by section 12 of 2005 Senate Bill No. 48, and K.S.A. 2004 Supp. 72-6407, as amended by section 12 of 2005 House Bill No. 2247, 72-6407, as amended by section 1 of 2005 House Bill No. 2059, and sections 1, 19, 28, 29, 31 and 34 through 40 of 2005 House Bill No. 2247.

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

New Section 1. (a) Each school district shall compile and report expenditures of the district in providing programs required by law and the number of pupils enrolled in such programs. Such information shall be compiled and reported in the manner required by the department.

(b) The department shall verify, on an on-going basis, expenditures of school districts in providing programs required by law and the number of pupils enrolled in such programs. Such verification may be conducted on a sample-basis of school districts.

New Sec. 2. As used in sections 3 through 9, and amendments thereto:

(a) "District" or "school district" means any school district which submits an application pursuant to section 4, and amendments thereto;

(b) "program" means the Kansas skills for success in school program;

(c) "department" means the Kansas department of education;

(d) "state board" means the state board of education; and

(e) "pupil" means any pupil in kindergarten or any of the grades one through three.

New Sec. 3. (a) Each school district shall determine each child's mathematics and reading skill-level and whether each child is progressing adequately in acquiring mathematics and reading skills for the child's grade-level. Districts shall use the grade-level standards and respective indicators adopted by the state board in making such determinations. Districts shall use state assessments or diagnostic assessments that meet the standards determined by the state board during kindergarten and each of the grades one through three to determine a child's level of performance and to target specialized instructional interventions, programs and strategies. A child's progress shall be assessed at least once each year. Annual diagnostic

assessments shall meet the diagnostic assessment requirements of the department.

(b) A district shall include in each participating school's improvement plan research-based intervention programs or strategies and interventions determined by the district. District-determined interventions may include, but are not limited to, individualized instruction, alternative teaching methods, a restructured school day, extended time strategies and any other intervention the district deems necessary.

(c) If a child has been identified as needing assistance, the plan for the school shall create a mechanism to track the child's interventions and progress. The school shall determine the methods by which the child's progress is measured. When a child has achieved the appropriate skills for the child's grade-level, no further interventions shall be necessary unless the child falls behind in another grade. If the child does not achieve the appropriate skills for the child's grade-level despite intervention, the school shall take action to initiate additional interventions for the child to achieve such skills. When appropriate, districts are encouraged to utilize skilled and trained community-based organizations and individuals to implement intervention plans.

New Sec. 4. (a) Applications for grants under the program shall be prepared and submitted in the form and manner required by the state board. The application shall be accompanied by any information required by the state board.

(b) The amount of money awarded through a grant shall not exceed the amount of actual expenses incurred by the district in the establishment and maintenance of the district's plan of interventions. If a district is paid more than it is entitled to receive under the program, the state board shall notify the district of the amount of such overpayment, and such district shall remit the same to the state board. The state board shall remit any moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund. If any district fails so to remit, the state board shall deduct the excess amounts so paid from future payments becoming due to the district. If any district is paid less than the amount to which it is entitled under any distribution made under this act, the state board shall pay the additional amount due at any time within the school year in which the underpayment was made or within 60 days after the end of such school year.

(c) The board of education of any district which is awarded a grant for an improvement plan shall make periodic and special reports to the state board of education as it may request.

New Sec. 5. (a) On or before January 1, 2006, the state board may adopt rules and regulations for the development and implementation of plans of intervention established under the program. The state board shall establish standards and criteria for reviewing, evaluating and approving school improvement plans and applications for grants submitted by districts. All grants shall be awarded by the state board in accordance with the standards and criteria established by the state board. No district shall be eligible to receive a grant unless the district includes within its plan specific strategies for intervention.

(b) Upon request of a school district, the state board shall provide technical assistance regarding the establishment and maintenance of the improvement plan.

New Sec. 6. On or before September 1, 2006, the state board of education shall report its progress on the implementation of the Kansas skills for success in school program to the legislative educational planning committee. The state board shall submit other reports as requested by the chairperson of the legislative educational planning committee. On or before September 1, 2007, and each year thereafter, the state board shall make an annual report on the pro-

(continued)

gram to the legislative educational planning committee. Annual reports shall include data relating to and supporting evaluations of goals, objectives and outcomes established by the state board. On or before the first day of the legislative session in 2007, and each year thereafter, the legislative educational planning committee shall prepare and submit to the legislature a report on the program and any recommendations relating thereto.

New Sec. 7. (a) In school year 2006-2007 and in each school year thereafter, subject to the limits of appropriations therefore, the state board may award grants to districts whose applications have been approved by the state board pursuant to the skills for success program.

(b) Moneys awarded through grants authorized by this section shall be distributed proportionately among districts receiving such grants on a per pupil basis.

(c) Moneys received by a district under subsection (a) shall be credited to the skills for success in school fund of the district established pursuant to section 9, and amendments thereto.

New Sec. 8. Any appropriations for the implementation of the provisions of sections 2 through 8, and amendments thereto, shall not exceed \$20,000,000, in the aggregate, from one or more funds in the state treasury.

New Sec. 9. (a) There is hereby established in every district a fund which shall be called the skills for success in school fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the district pursuant to the skills for success in school program shall be credited to the skills for success in school fund established by this section. The expenses of a district directly attributable to the establishment and maintenance of the district's plan of interventions shall be paid from the skills for success in school fund.

(b) Any balance remaining in the skills for success in school fund at the end of the budget year shall be carried forward into the skills for success in school fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the skills for success in school fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

New Sec. 10. (a) There is hereby established in every district a fund which shall be called the preschool-aged at-risk education fund, which fund shall consist of all moneys deposited therein or transferred thereto according to law. Notwithstanding any other provision of law, all moneys received by the district from whatever source for preschool-aged at-risk assistance plans or programs shall be credited to the preschool-aged at-risk education fund established by this section. The expenses of a district directly attributable to providing preschool-aged at-risk assistance or programs shall be paid from the preschool-aged at-risk education fund.

(b) Any balance remaining in the preschool-aged at-risk education fund at the end of the budget year shall be carried forward into the preschool-aged at-risk education fund for succeeding budget years. Such fund shall not be subject to the provisions of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing the budget of such school district, the amounts credited to and the amount on hand in the preschool-aged at-risk education fund, and the amount expended therefrom shall be included in the annual budget for the information of the residents of the school district. Interest earned on the investment of moneys in any such fund shall be credited to that fund.

New Sec. 11. (a) Except as provided by subsection (b), school facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget in an amount equal to the state prescribed percentage for the school year. School facili-

ties weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.

(b) School facilities weighting may be assigned to the enrollment of a district which adopted a local option budget in an amount which is not less than 25%, if the issuance of bonds to finance such facilities has been approved at an election held on or before June 30, 2005.

New Sec. 12. (a) As used in this section, "school district" or "district" means a school district authorized to make a levy under this section.

(b) The board of education of any district may levy a tax on the taxable tangible property within the district for the purpose of financing the costs incurred by the state that are attributable directly to assignment of the cost of living weighting to the enrollment of the district. There is hereby established in every school district a fund which shall be called the cost of living fund, which fund shall consist of all moneys deposited therein or transferred thereto in accordance with law. All moneys derived from a tax imposed pursuant to this section shall be credited to the cost of living fund. The proceeds from the tax levied by a district credited to the cost of living fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

(c) The state board of education shall determine whether a district may levy a tax under this section as follows:

(1) Determine the statewide average appraised value of single family residences for the calendar year preceding the current school year;

(2) multiply the amount determined under (1) by 1.25;

(3) determine the average appraised value of single family residences in each school district for the calendar year preceding the current school year; and

(4) subtract the amount determined under (2) from the amount determined under (3). If the amount determined for the district under (4) is a positive number and the district is authorized to adopt and has adopted a local option budget in an amount equal to the state prescribed percentage in the current school year, the district qualifies for assignment of cost of living weighting and may levy a tax on the taxable tangible property of the district for the purpose of financing the costs that are attributable directly to assignment of the cost of living weighting to enrollment of the district.

(d) Except as provided by subsection (e), no tax may be levied under this section unless the board of education adopts a resolution authorizing such a tax levy and publishes the resolution at least once in a newspaper having general circulation in the district. Except as provided by subsection (e), the resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

#### RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to levy an ad valorem tax in an amount not to exceed the amount necessary to finance the costs attributable directly to the assignment of cost of living weighting to the enrollment of the district. The ad valorem tax authorized by this resolution may be levied unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after the publication of this resolution. If a petition is filed, the county election officer shall submit the question of whether the levy of such a tax shall be authorized in accordance with the provisions of this resolution to the electors of the school district at the next general election of the school district, as is specified by the board of education of the school district.

## CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, (year)\_\_\_\_\_.

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be filled. If no petition as specified above is filed in accordance with the provisions of the resolution, the resolution authorizing the ad valorem tax levy shall become effective. If a petition is filed as provided in the resolution, the board may notify the county election officer to submit the question of whether such tax levy shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and of no force and effect and no like resolution shall be adopted by the board within the nine months following publication of the resolution. If a majority of the votes cast in an election conducted pursuant to this provision are in favor of the resolution, such resolution shall be effective on the date of such election. If a majority of the votes cast are not in favor of the resolution, the resolution shall be deemed of no effect and no like resolution shall be adopted by the board within the nine months following such election.

(e) Any resolution adopted pursuant to this section for school year 2005-2006 shall not be subject to the provisions of subsection (d) relating to publication, protest or election.

New Sec. 13. (a) As used in this section:

(1) "School district" or "district" means a school district which: (A) Has an extraordinary declining enrollment; and (B) has adopted a local option budget in an amount which equals the state prescribed percentage under K.S.A. 72-6433, and amendments thereto.

(2) "Extraordinary declining enrollment" means an enrollment which has declined during the preceding three school years at a rate of at least 15% per year or by at least 150 pupils per year.

(b) (1) A school district may levy an ad valorem tax on the taxable tangible property of the district each year for a period of time not to exceed two years in an amount not to exceed the amount authorized by the state board of tax appeals under this subsection for the purpose of financing the costs incurred by the state that are directly attributable to assignment of extraordinary declining enrollment weighting to enrollment of the district. The state board of tax appeals may authorize the district to make a levy which will produce an amount that is not greater than the difference between the amount of replacing revenues lost as a result of the declining enrollment of the district.

(2) The board of tax appeals shall certify to the state board of education the amount authorized to be produced by the levy of a tax under subsection (a).

(c) A district may levy the tax authorized pursuant to this section for a period of time not to exceed two years unless authority to make such levy is renewed by the state board of tax appeals. The state board of tax appeals may renew the authority to make such levy for periods of time not to exceed two years.

(d) There is hereby established in every district a fund which shall be called the declining enrollment fund. Such fund shall consist of all moneys deposited therein or transferred thereto according to law. The proceeds from the tax levied by a district under authority of this section shall be credited to the declining enrollment fund of the district. The proceeds from the tax levied by a district credited to the declining enrollment fund shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state school district finance fund.

New Sec. 14. (a) As used in this section:

(1) "School district" or "district" means a school district which has an extraordinary declining enrollment.

(2) "Extraordinary declining enrollment" means an enrollment which has declined during the preceding three school years at a rate of at least 5% per year or by at least 50 pupils per year.

(3) "Joint committee" means the joint committee on state building construction.

(b) The board of education of any school district shall not authorize the issuance of any bonds for the construction of a new building without having first advised and consulted with the joint committee. Prior to the date of the hearing of the joint committee at which the board is scheduled to appear, the board shall submit any information requested by the joint committee. Following such hearing, the committee shall make a recommendation on the advisability of the proposed issuance of bonds. A copy of the committee's recommendation shall be provided to the school district and to the state board of education within 15 days of the date of the hearing.

(c) If the joint committee recommends against the issuance of any bonds for the construction of a new building and if the district proceeds to issue bonds for such construction, the district shall not be entitled to, and shall not receive, state aid for such bonds under K.S.A. 75-2319, and amendments thereto unless approved by the state board.

(d) The provisions of this section shall not apply to any district which is not entitled to state aid under K.S.A. 75-2319, and amendments thereto.

New Sec. 15. The appropriation of moneys necessary to pay general state aid and supplemental general state aid under the school district finance and quality performance act and state aid for the provision of special education and related services under the special education for exceptional children act shall be given first priority in the legislative budgeting process and shall be paid first from existing state revenues.

Sec. 16. K.S.A. 2004 Supp. 72-6407 is hereby amended to read as follows: 72-6407. (a) (1) "Pupil" means any person who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 maintained by the district or who is regularly enrolled in a district and attending kindergarten or any of the grades one through 12 in another district in accordance with an agreement entered into under authority of K.S.A. 72-8233, and amendments thereto, or who is regularly enrolled in a district and attending special education services provided for preschool-aged exceptional children by the district.

(2) Except as otherwise provided in paragraph (3) of this subsection, a pupil in attendance full time shall be counted as one pupil. A pupil in attendance part time shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the pupil's attendance bears to full-time attendance. A pupil attending kindergarten shall be counted as  $\frac{1}{2}$  pupil. A pupil enrolled in and attending an institution of postsecondary education which is authorized under the laws of this state to award academic degrees shall be counted as one pupil if the pupil's postsecondary education enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least  $\frac{5}{6}$  time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest  $\frac{1}{10}$ ) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special edu-

(continued)

cation and related services for preschool-aged exceptional children provided for by the district shall be counted as ½ pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as ½ pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils.

(3) A pupil residing at the Flint Hills job corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted. A pupil enrolled in a virtual school in a district but who is not a resident of the state of Kansas shall not be counted.

(b) "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.

(c) "At-risk pupils" means pupils who are eligible for free meals under the national school lunch act and who are enrolled in a district which maintains an approved at-risk pupil assistance plan.

(d) "Preschool-aged at-risk pupil" means an at-risk pupil who has attained the age of four years, is under the age of eligibility for attendance at kindergarten, and has been selected by the state board in accordance with guidelines consonant with guidelines governing the selection of pupils for participation in head start programs. ~~The state board shall select not more than 5,500 preschool-aged at-risk pupils to be counted in any school year.~~

(e) "Enrollment" means: (1) (A) *Subject to the provisions of paragraph (1)(B), for districts scheduling the school days or school hours of the school term on a trimestral or quarterly basis, the number of pupils regularly enrolled in the district on September 20 plus the number of pupils regularly enrolled in the district on February 20 less the number of pupils regularly enrolled on February 20 who were counted in the enrollment of the district on September 20; and for districts not specified in this clause paragraph (1), the number of pupils regularly enrolled in the district on September 20;* (B) *a pupil who is a foreign exchange student shall not be counted unless such student is regularly enrolled in the district 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;*

(2) if enrollment in a district in any school year has decreased from enrollment in the preceding school year, enrollment of the district in the current school year means whichever is the greater of (A) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled, plus enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled, or (B) the sum of enrollment in the current school year of preschool-aged at-risk pupils, if any such pupils are enrolled and the average (mean) of the sum of (i) enrollment of the district in the current school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils are enrolled and (ii) enrollment in the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled and (iii) enrollment in the school year next preceding the preceding school year minus enrollment in such school year of preschool-aged at-risk pupils, if any such pupils were enrolled; or

(3) the number of pupils as determined under K.S.A. 72-6447 or section 2 of 2005 House Bill No. 2059, and amendments thereto.

(f) "Adjusted enrollment" means enrollment adjusted by adding at-risk pupil weighting, program weighting, low enrollment weighting, if any, ~~correlation extraordinary declining enrollment~~ weighting, if any, school facilities weighting, if any, ancillary school facilities weighting, if any, *cost of living weighting, if any, special education*

and related services weighting, and transportation weighting to enrollment.

(g) "At-risk pupil weighting" means an addend component assigned to enrollment of districts on the basis of enrollment of at-risk pupils.

(h) "Program weighting" means an addend component assigned to enrollment of districts on the basis of pupil attendance in educational programs which differ in cost from regular educational programs.

(i) "Low enrollment weighting" means an addend component assigned to enrollment of districts having under 1,725 enrollment on the basis of costs attributable to maintenance of educational programs by such districts in comparison with costs attributable to maintenance of educational programs by districts having 1,725 or over enrollment.

(j) "School facilities weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to commencing operation of new school facilities. ~~School facilities weighting may be assigned to enrollment of a district only if the district has adopted a local option budget and budgeted therein the total amount authorized for the school year. School facilities weighting may be assigned to enrollment of the district only in the school year in which operation of a new school facility is commenced and in the next succeeding school year.~~

(k) "Transportation weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to the provision or furnishing of transportation.

(l) ~~"Correlation weighting" means an addend component assigned to enrollment of districts having 1,725 or over enrollment on the basis of costs attributable to maintenance of educational programs by such districts as a correlate to low enrollment weighting assigned to enrollment of districts having under 1,725 enrollment.~~ *"Cost of living weighting" means an addend component assigned to enrollment of districts to which the provisions of section 12, and amendments thereto, apply on the basis of costs attributable to the extraordinary cost of living in the district.*

(m) "Ancillary school facilities weighting" means an addend component assigned to enrollment of districts to which the provisions of K.S.A. 72-6441, and amendments thereto, apply on the basis of costs attributable to commencing operation of new school facilities. Ancillary school facilities weighting may be assigned to enrollment of a district only if the district has levied a tax under authority of K.S.A. 72-6441, and amendments thereto, and remitted the proceeds from such tax to the state treasurer. Ancillary school facilities weighting is in addition to assignment of school facilities weighting to enrollment of any district eligible for such weighting.

(n) "Juvenile detention facility" means: (1) Any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail;

(2) any level VI treatment facility licensed by the Kansas department of health and environment which is a psychiatric residential treatment facility for individuals under the age of 21 which conforms with the regulations of the centers for medicare/medicaid services and the joint commission on accreditation of health care organizations governing such facilities; and

(3) the Forbes Juvenile Attention Facility, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch Center Youth Services, the Clarence M. Kelley Youth Center, the Clarence M. Kelley Transitional Living Center, Trego County Secure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.

(o) "Special education and related services weighting" means an addend component assigned to enrollment of districts on the basis of costs attributable to provision of special education and related services for pupils determined to be exceptional children.

(p) "Virtual school" means any kindergarten or grades one through 12 course offered for credit that uses distance-learning tech-



nologies which predominantly use internet-based methods to deliver instruction and for which the course content is available on an “anytime, anyplace” basis, but the instruction occurs asynchronously with the teacher and pupil in separate locations, not necessarily located within a local education agency.

(q) “Extraordinary declining enrollment weighting” means an addend component assigned to enrollment of districts to which the provisions of section 13, and amendments thereto, apply on the basis of reduced revenues attributable to the declining enrollment of the district.

Sec. 17. K.S.A. 72-6433 is hereby amended to read as follows: 72-6433. (a) (1) The board of any district may adopt a local option budget in each school year in an amount not to exceed an amount equal to the district prescribed percentage of the amount of state financial aid determined for the district in the school year. As used in this section, “district prescribed percentage” means:

(A) For any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year, in the 2001-02 school year and in each school year thereafter, a percentage that is equal to 80% of the percentage specified in the resolution under which the district was authorized to adopt a local option budget in the 1996-97 school year;

(B) for any district that was authorized to adopt and that adopted a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(C) for any district that was not authorized to adopt a local option budget in the 1996-97 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, apply in the current school year, a percentage in the 2001-02 school year and each school year thereafter that is equal to the sum of the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year and the percentage computed for the district by the state board under the provisions of K.S.A. 72-6444, and amendments thereto;

(D) for any district to which the provisions of K.S.A. 72-6444, and amendments thereto, applied in the 1997-98 school year and to which the provisions of K.S.A. 72-6444, and amendments thereto, do not apply in the current school year because an increase in the amount budgeted by the district in its local option budget as authorized by a resolution adopted under the provisions of subsection (b) causes the actual amount per pupil budgeted by the district in the preceding school year as determined for the district under provision (1) of subsection (a) of K.S.A. 72-6444, and amendments thereto, to equal or exceed the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district’s enrollment group, a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year if the resolution authorized the district to increase its local option budget on a continuous and permanent basis. If the resolution that authorized the district to increase its local option budget specified a definite period of time for which the district would retain its authority to increase the local option budget and such authority lapses at the conclusion of such period and is not renewed, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution unless the loss of the percentage of increase that

was authorized by the resolution would cause the actual amount per pupil budgeted by the district to be less than the average amount per pupil of general fund budgets and local option budgets computed by the state board under whichever of the provisions (7) through (10) of subsection (a) of K.S.A. 72-6444, and amendments thereto, is applicable to the district’s enrollment group, in which case, the term district prescribed percentage means a percentage that is equal to the percentage of the amount of state financial aid the district was authorized to budget in the preceding school year less the percentage of increase that was authorized by the resolution plus a percentage which shall be computed for the district by the state board in accordance with the provisions of K.S.A. 72-6444, and amendments thereto, except that, in making the determination of the actual amount per pupil budgeted by the district in the preceding school year, the state board shall exclude the percentage of increase that was authorized by the resolution.

(2) (A) Subject to the provisions of subpart (B), the adoption of a local option budget under authority of this subsection shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(B) In lieu of utilizing the authority granted by subpart (A) for adoption of a local option budget, the board of a district may pass a resolution authorizing adoption of such a budget and publish such resolution once in a newspaper having general circulation in the district. The resolution shall be published in substantial compliance with the following form:

Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, Kansas.

#### RESOLUTION

Be It Resolved that:

The board of education of the above-named school district shall be authorized to adopt a local option budget in each school year for a period of time not to exceed \_\_\_\_\_ years in an amount not to exceed \_\_\_\_\_% of the amount of state financial aid determined for the current school year. The local option budget authorized by this resolution may be adopted, unless a petition in opposition to the same, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether adoption of the local option budget shall be authorized to the electors of the school district at an election called for the purpose or at the next general election, as is specified by the board of education of the school district.

#### CERTIFICATE

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, Kansas, on \_\_\_\_\_ the  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Clerk of the board of education.

All of the blanks in the resolution shall be appropriately filled. The blank preceding the word “years” shall be filled with a specific number, and the blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in either of the blanks. The percentage specified in the resolution shall not exceed the district prescribed percentage. The resolution shall be published once in a newspaper having general circulation in the school district. If no petition as specified above is filed in accordance with the provisions of the resolution, the board may adopt a local option budget. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether adoption of a local option budget shall be authorized. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(continued)

If any district is authorized to adopt a local option budget under this subpart, but the board of such district chooses, in any school year, not to adopt such a budget or chooses, in any school year, to adopt such budget in an amount less than the amount of the district prescribed percentage of the amount of state financial aid in any school year, such board of education may so choose. If the board of any district refrains from adopting a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the authority of such district to adopt a local option budget shall not be extended by such refrainment beyond the period specified in the resolution authorizing adoption of such budget, nor shall the amount authorized to be budgeted in any succeeding school year be increased by such refrainment. Whenever an initial resolution has been adopted under this subpart, and such resolution specified a lesser percentage than the district prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and subject to the same conditions, and shall be authorized to increase the percentage as specified in any such subsequent resolution for the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions is not in excess of the district prescribed percentage in any school year. The board of any district that has been authorized to adopt a local option budget under this subpart and levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew its authority to adopt a local option budget in the manner specified in this subpart or may utilize the authority granted by subpart (A). As used in this subpart, the term "authorized to adopt a local option budget" means that a district has adopted a resolution under this subpart, has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the adoption of a local option budget was approved.

(3) The provisions of this subsection are subject to the provisions of subsections (b) and (c).

(b) The provisions of this subsection (b) shall be subject to the provisions of K.S.A. 72-6433a, and amendments thereto.

(1) The board of any district that adopts a local option budget under subsection (a) may increase the amount of such budget in each school year in an amount which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage of the amount of state financial aid determined for the district in the school year if the board of the district determines that an increase in such budget would be in the best interests of the district.

(2) No district may increase a local option budget under authority of this subsection until: (A) A resolution authorizing such an increase is passed by the board and published once in a newspaper having general circulation in the district; or (B) the question of whether the board shall be authorized to increase the local option budget has been submitted to and approved by the qualified electors of the district at a special election called for the purpose. Any such election shall be noticed, called and held in the manner provided by K.S.A. 10-120, and amendments thereto, for the noticing, calling and holding of elections upon the question of issuing bonds under the general bond law. The notice of such election shall state the purpose for and time of the election, and the ballot shall be designed with the question of whether the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year. If a majority of the qualified electors voting at the election approve authorization of the board to

increase the local option budget, the board shall have such authority. If a majority of the qualified electors voting at the election are opposed to authorization of the board to increase the local option budget, the board shall not have such authority and no like question shall be submitted to the qualified electors of the district within the nine months following the election.

(3) (A) Subject to the provisions of subpart (B), a resolution authorizing an increase in the local option budget of a district shall state that the board of education of the district shall be authorized to increase the local option budget of the district in each school year in an amount not to exceed \_\_\_\_\_% of the amount of state financial aid determined for the current school year and that the percentage of increase may be reduced so that the sum of the percentage of the amount of state financial aid budgeted under subsection (a) and the percentage of increase specified in the resolution does not exceed the state prescribed percentage in any school year. The blank preceding the percentage symbol shall be filled with a specific number. No word shall be inserted in the blank. The resolution shall specify a definite period of time for which the board shall be authorized to increase the local option budget and such period of time shall be expressed by the specific number of school years for which the board shall retain its authority to increase the local option budget. No word shall be used to express the number of years for which the board shall be authorized to increase the local option budget.

(B) In lieu of the requirements of subpart (A) and at the discretion of the board, a resolution authorizing an increase in the local option budget of a district may state that the board of education of the district shall be continuously and permanently authorized to increase the local option budget of the district in each school year by a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) does not exceed the state prescribed percentage in any school year.

(4) A resolution authorizing an increase in the local option budget of a district shall state that the amount of the local option budget may be increased as authorized by the resolution unless a petition in opposition to such increase, signed by not less than 5% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 30 days after publication. If no petition is filed in accordance with the provisions of the resolution, the board is authorized to increase the local option budget of the district. If a petition is filed as provided in the resolution, the board may notify the county election officer of the date of an election to be held to submit the question of whether the board shall be authorized to increase the local option budget of the district. If the board fails to notify the county election officer within 30 days after a petition is filed, the resolution shall be deemed abandoned and no like resolution shall be adopted by the board within the nine months following publication of the resolution.

(5) The requirements of provision (2) do not apply to any district that is continuously and permanently authorized to increase the local option budget of the district. An increase in the amount of a local option budget by such a district shall require a majority vote of the members of the board and shall require no other procedure, authorization or approval.

(6) If any district is authorized to increase a local option budget, but the board of such district chooses, in any school year, not to adopt or increase such budget or chooses, in any school year, to adopt or increase such budget in an amount less than the amount authorized, such board of education may so choose. If the board of any district refrains from adopting or increasing a local option budget in any one or more school years or refrains from budgeting the total amount authorized for any one or more school years, the amount authorized to be budgeted in any succeeding school year shall not be increased by such refrainment, nor shall the authority of the district to increase its local option budget be extended by such refrainment beyond the period of time specified in the resolution authorizing an increase in the local option budget if the resolution specified such a period of time.

(7) Whenever an initial resolution has been adopted under this subsection, and such resolution specified a percentage which together with the percentage of the amount of state financial aid budgeted under subsection (a) is less than the state prescribed percentage, the board of the district may adopt one or more subsequent resolutions under the same procedure as provided for the initial resolution and shall be authorized to increase the percentage as specified in any such subsequent resolution. If the initial resolution specified a definite period of time for which the district is authorized to increase its local option budget, the authority to increase such budget by the percentage specified in any subsequent resolution shall be limited to the remainder of the period of time specified in the initial resolution. Any percentage specified in a subsequent resolution or in subsequent resolutions shall be limited so that the sum of the percentage authorized in the initial resolution and the percentage authorized in the subsequent resolution or in subsequent resolutions together with the percentage of the amount of state financial aid budgeted under subsection (a) is not in excess of the state prescribed percentage in any school year.

(8) (A) Subject to the provisions of subpart (B), the board of any district that has adopted a local option budget under subsection (a), has been authorized to increase such budget under a resolution which specified a definite period of time for retention of such authorization, and has levied a tax under authority of K.S.A. 72-6435, and amendments thereto, may initiate, at any time after the final levy is certified to the county clerk under any current authorization, procedures to renew the authority to increase the local option budget subject to the conditions and in the manner specified in provisions (2) and (3) of this subsection.

(B) The provisions of subpart (A) do not apply to the board of any district that is continuously and permanently authorized to increase the local option budget of the district.

(9) As used in this subsection:

(A) "Authorized to increase a local option budget" means either that a district has held a special election under provision (2)(B) by which authority of the board to increase a local option budget was approved, or that a district has adopted a resolution under provision (2) (A), has published the same, and either that the resolution was not protested or that it was protested and an election was held by which the authority of the board to increase a local option budget was approved.

(B) "State prescribed percentage" means ~~25%~~ 27% for school year 2005-2006, 29% for school year 2006-2007 and 30% for school year 2007-2008 and each school year thereafter.

(c) To the extent the provisions of the foregoing subsections conflict with this subsection, this subsection shall control. Any district that is authorized to adopt a local option budget in the 1997-98 school year under a resolution which authorized the adoption of such budget in accordance with the provisions of this section prior to its amendment by this act may continue to operate under such resolution for the period of time specified in the resolution or may abandon the resolution and operate under the provisions of this section as amended by this act. Any such district shall operate under the provisions of this section as amended by this act after the period of time specified in the resolution has expired.

(d) (1) There is hereby established in every district that adopts a local option budget a fund which shall be called the supplemental general fund. The fund shall consist of all amounts deposited therein or credited thereto according to law.

(2) Subject to the limitation imposed under provision (3), amounts in the supplemental general fund may be expended for any purpose for which expenditures from the general fund are authorized or may be transferred to the general fund of the district or to any program weighted fund or categorical fund of the district.

(3) Amounts in the supplemental general fund may not be expended nor transferred to the general fund of the district for the purpose of making payments under any lease-purchase agreement involving the acquisition of land or buildings which is entered into

pursuant to the provisions of K.S.A. 72-8225, and amendments thereto.

(4) Any unexpended and unencumbered cash balance remaining in the supplemental general fund of a district at the conclusion of any school year in which a local option budget is adopted shall be disposed of as provided in this subsection. If the district did not receive supplemental general state aid in the school year and the board of the district determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If the board of such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, transferred or expended the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be maintained in such fund or transferred to the general fund of the district. If such a district determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will not be necessary to adopt a local option budget in the ensuing school year, the total amount of the cash balance remaining in the supplemental general fund shall be transferred to the general fund of the district. If the district received supplemental general state aid in the school year, did not transfer or expend the entire amount budgeted in the local option budget for the school year, and determines that it will be necessary to adopt a local option budget in the ensuing school year, the state board shall determine the ratio of the amount of supplemental general state aid received to the amount of the local option budget of the district for the school year and multiply the total amount of the cash balance remaining in the supplemental general fund by such ratio. An amount equal to the amount of the product shall be transferred to the general fund of the district. The amount remaining in the supplemental general fund may be maintained in such fund or transferred to the general fund of the district.

*(e) To the extent the provisions of the foregoing section conflict with this subsection, this subsection shall control. Any district that adopted or was authorized to adopt a local option budget for school year 2004-2005 in an amount equal to 25% may adopt a local option budget for school year 2005-2006 in an amount not to exceed the state prescribed percentage in effect on July 1, 2005, by adoption of a resolution. Such resolution shall not be subject to the provisions of this section relating to publication, protest or election.*

Sec. 18. K.S.A. 72-6438 is hereby amended to read as follows: 72-6438. (a) The state school district finance fund, established by K.S.A. 1991 Supp. 72-7081 prior to its repeal by ~~the~~ *the school district finance and quality performance* act, is hereby continued in existence and shall consist of (1) all moneys credited to such fund under K.S.A. 72-6418 and 72-6431 and ~~K.S.A.~~ 72-6441 and sections 12 and 13, and amendments thereto, and (2) all amounts transferred to such fund.

(b) The state school district finance fund shall be used for the purpose of school district finance and for no other governmental purpose. It is the intent of the legislature that the fund shall remain intact and inviolate for such purpose, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

*(continued)*

(c) Amounts in the state school district finance fund shall be allocated and distributed to school districts as a portion of general state aid entitlements provided for under this act.

Sec. 19. K.S.A. 72-6405 is hereby amended to read as follows: 72-6405. (a) K.S.A. 72-6405 through 72-6440 and the provisions of 2005 House Bill No. 2247 and sections 1 through 18 of this act, and amendments thereto, shall be known and may be cited as the school district finance and quality performance act.

(b) The provisions of ~~this act~~ *the school district finance and quality performance act* are severable. If any provision of ~~this~~ *that* act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of ~~this~~ *such* act without such invalid or unconstitutional provision.

Sec. 20. K.S.A. 74-32,101 is hereby amended to read as follows: 74-32,101. As used in this act:

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

(b) "qualified student" means a person who: (1) Is a resident of the state of Kansas; (2) has been accepted for admission to or is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* as a teacher; and (3) has qualified for the award of a scholarship under the teacher service scholarship program on the basis of having demonstrated scholastic ability, or who has previously so qualified and remains qualified for renewal of the scholarship on the basis of remaining in good standing and making satisfactory progress toward completion of the requirements of the course of instruction in which enrolled;

(c) "hard-to-fill teaching discipline" means (1) a teaching discipline in which there is a critical shortage of teachers as determined and specified by the state board of education; and (2) *the teaching disciplines of mathematics and science for any of the grades five through 12; and*

(d) "underserved area" means a geographic area of the state in which there is a critical shortage of teachers as determined and specified by the state board of education.

Sec. 21. K.S.A. 74-32,102 is hereby amended to read as follows: 74-32,102. (a) There is hereby established the teacher service scholarship program. A scholarship may be awarded under the teacher service scholarship program to any qualified student and may be renewed for each such student who remains qualified for the scholarship. Determination of the students qualified for such scholarships shall be made by the executive officer. Scholastic ability shall be determined on the basis of any one or more of the following: (1) High ACT or SAT score; (2) rank in high school graduation class; (3) cumulative high school or college grade point average; or (4) any other indicator of scholastic ability which the state board of regents determines to be demonstrative of potential for successful completion of a course of instruction leading to ~~certification~~ *licensure* as a teacher. To the extent practicable and consistent with qualification factors, consideration shall be given to *qualified* students who are members of ethnic minority groups.

(b) A scholarship awarded under the program shall provide for payment to a qualified student of (1) an amount not to exceed 70% of the cost of attendance for an academic year at the teacher education school in which the qualified student is enrolled if such teacher education school is maintained by a state educational institution or (2) an amount not to exceed 70% of the average amount of the cost of attendance for an academic year at the teacher education schools maintained by the state educational institutions if the teacher education school in which the qualified student is enrolled is not a state educational institution. A qualified student may be awarded a scholarship for not more than four academic years of undergraduate study, except that a qualified student who is enrolled full time in a course of instruction leading to ~~certification~~ *licensure* in a teaching discipline for which graduate study is required may be awarded a scholarship for the duration of the course of instruction.

New Sec. 22. (a) If a petition is filed in a district court of this state alleging a violation of Article 6 of the Kansas constitution, the chief judge of such district court shall notify the chief justice of the supreme court of such petition within three business days thereafter.

(b) Within three business days of receiving such notice, the chief justice shall notify the chief judge of the court of appeals. Within 10 business days of receiving notice by the chief justice, the chief judge shall appoint a panel of three current or retired district court judges to preside over such civil action. The chief judge shall designate one of such judges to be the presiding judge of the panel. The judicial panel shall be considered a court of competent jurisdiction to hear and decide the civil action.

(c) The judicial panel shall establish venue pursuant to section 23, and amendments thereto.

New Sec. 23. (a) In any action alleging a violation of Article 6 of the Kansas constitution, venue shall be brought in the county as designated by the three judge panel appointed pursuant to section 22, and amendments thereto. In making such designation, the judicial panel shall consider the location of the parties and the witnesses.

Sec. 24. K.S.A. 2004 Supp. 60-2102 is hereby amended to read as follows: 60-2102. (a) *As of right*. Except for any order or final decision of a district magistrate judge, the appellate jurisdiction of the court of appeals may be invoked by appeal as a matter of right from:

(1) An order that discharges, vacates or modifies a provisional remedy.

(2) An order that grants, continues, modifies, refuses or dissolves an injunction, or an order that grants or refuses relief in the form of mandamus, quo warranto or habeas corpus.

(3) An order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes thereof, such as directing sales or other disposal of property, or an order involving the tax or revenue laws, the title to real estate, the constitution of this state or the constitution, laws or treaties of the United States.

(4) A final decision in any action, except in an action where a direct appeal to the supreme court is required by law. In any appeal or cross appeal from a final decision, any act or ruling from the beginning of the proceedings shall be reviewable.

(b) The appellate jurisdiction of the supreme court may be invoked by appeal as a matter of right from a preliminary or final decision in which a statute of this state has been held unconstitutional as a violation of Article 6 of the Kansas constitution *pursuant to section 22, and amendments thereto*. Any appeal filed pursuant to this subsection shall be filed within 30 days of the date the preliminary or final decision is filed ~~or within 30 days of the effective date of this act, whichever is later. The provisions of this subsection shall expire on July 1, 2006.~~

(c) *Other appeals*. When a district judge, in making a civil action an order not otherwise appealable under this section, is of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the judge shall so state in writing in such order. The court of appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within 10 days after the entry of the order under such terms and conditions as the supreme court fixes by rule. Application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or an appellate court or a judge thereof so orders.

Sec. 25. K.S.A. 8-272 is hereby amended to read as follows: 8-272. (a) Any school district conducting an approved course in driver training and any student attending a nonpublic school accredited by the state board of education conducting an approved course in driver training shall be entitled to participate in the state safety fund created by K.S.A. 8-267, and amendments thereto. In August of each year, the superintendent of each school district and the governing authority of each nonpublic school shall report to the state board of edu-

ation the number of students who have been in attendance for a complete driver training course conducted by such school district or nonpublic school during the past school year. ~~From the state safety fund in the state treasury, \$1,540,000 shall be distributed in the manner hereinafter provided to the respective school districts and nonpublic schools on order of the state board of education in the ratio that the number of students in each school district or nonpublic school in attendance for such complete courses bears to the total number of students in all such schools and nonpublic schools in attendance for such complete courses.~~ The state board of education shall certify to the director of accounts and reports the amount due each school district and each student of a nonpublic school *entitled to payment under this subsection.* The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district and to each student of a nonpublic school entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective school districts and nonpublic schools. If the amount appropriated in any year from the state safety fund ~~shall be~~ is insufficient to pay the full amount each school district and each student of a nonpublic school is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all school districts and all students of nonpublic schools in proportion to the amount each school district and each student of a nonpublic school is entitled to receive. No moneys in the state safety fund shall be used for any purpose other than that specified in this subsection or for the support of driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

(b) (1) Any school district conducting an approved course in motorcycle safety as a part of an approved course in driver training; any student attending a nonpublic school accredited by the state board of education conducting an approved course in motorcycle safety as a part of an approved course in driver training or any community college conducting an approved course in motorcycle safety shall be entitled to participate in the motorcycle safety fund created by K.S.A. 8-267, and amendments thereto. The state board of education may establish, by rules and regulations, standards for the conduct, operation and approval of courses in motorcycle safety and for the qualifications of instructors for such courses *conducted by a school district or nonpublic accredited school.* Such standards shall not include the requirement that instructors be ~~certificated~~ licensed by the state board of education. In August of each year, the superintendent of each school district; ~~or the governing authority of each nonpublic school or the chief administrative officer of each community college~~ shall report to the state board of education the number of students who have been in attendance for a complete course in motorcycle safety as a part of the driver training course conducted by such school district; ~~or nonpublic school or community college~~ during the past school year. ~~From the motorcycle safety fund in the state treasury, \$210,000 shall be distributed in the manner hereinafter provided to the respective school districts, nonpublic schools and community colleges on order of the state board of education in the ratio that the number of students in each school district, nonpublic school or community college in attendance for such complete courses in motorcycle safety bears to the total number of students in all such schools, nonpublic schools and community colleges in attendance for such complete courses.~~ The state board of education shall certify to the director of accounts and reports the amount due each school district; *and each student of a nonpublic school and each community college entitled to payment under this subsection.* The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each school district; *and to each student of a nonpublic school and to each treasurer of each community college* entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective school districts; *and nonpublic schools and community colleges.* If

the amount appropriated in any year from the motorcycle safety fund shall be insufficient to pay the full amount each school district; *and each student of a nonpublic school and each community college* is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all school districts; *and all students of nonpublic schools and all community colleges* in proportion to the amount each school district; *and each student of a nonpublic school and each community college* is entitled to receive. No moneys in the motorcycle safety fund shall be used for any purpose other than that specified in this subsection or for the support of motorcycle driver improvement programs. The state board of education shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

(2) *Any community college conducting an approved course in motorcycle safety shall be entitled to participate in the motorcycle safety fund created by K.S.A. 8-267, and amendments thereto. The state board of regents may establish, by rules and regulations, standards for the conduct, operation and approval of courses in motorcycle safety and for the qualifications of instructors for such courses conducted by a community college. Such standards shall not include the requirement that instructors be licensed by the state board of education. In August of each year, the chief administrative officer of each community college shall report to the state board of regents the number of students who have been in attendance for a complete course in motorcycle safety as a part of the driver training course conducted by such community college during the past school year. The state board of regents shall certify to the director of accounts and reports the amount due each community college entitled to payment under this subsection. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each community college entitled to payment under this subsection upon vouchers approved by the state board and shall cause such warrants to be delivered to the respective community colleges. If the amount appropriated in any year from the motorcycle safety fund shall be insufficient to pay the full amount each community college is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all community colleges in proportion to the amount each community college is entitled to receive. No moneys in the motorcycle safety fund shall be used for any purpose other than that specified in this subsection or for the support of motorcycle driver improvement programs. The state board of regents shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.*

(c) For the purpose of this subsection, "vocational education school" means community college, area vocational-technical school or area vocational school. Any vocational education school conducting an approved course in truck driving shall be entitled to participate in the truck driver training fund created by K.S.A. 8-267, and amendments thereto. The state board of ~~education~~ *regents* may establish, by rules and regulations, standards for the conduct, operation and approval of courses in truck driver training and for the qualifications of instructors for such courses. Such standards shall not include the requirement that instructors be certificated by the state board of ~~education~~ *regents.* In August of each year, the chief administrative officer of each vocational education school shall report to the state board of ~~education~~ *regents* the number of students who have been in attendance for a complete course in truck driver training conducted by such vocational education school during the past school year. ~~From the truck driver training fund in the state treasury, \$70,000 shall be distributed in the manner hereinafter provided to the respective vocational education school on order of the state board of education in the ratio that the number of students in each vocational education school in attendance for such complete courses in truck driver training bears to the total number of students in all such vocational education schools in attendance for such complete~~

(continued)

~~courses.~~ The state board of ~~education~~ *regents* shall certify to the director of accounts and reports the amount due each vocational education school *entitled to payment under this subsection*. The director of accounts and reports shall draw warrants on the state treasurer payable to the treasurer of each vocational education school entitled to payment under this subsection upon vouchers approved by the state board of *regents* and shall cause such warrants to be delivered to the respective vocational education school. If the amount appropriated in any year from the truck driver training fund shall be insufficient to pay the full amount each vocational education school is entitled to receive under this subsection, then the entire amount appropriated for such year shall be prorated among all vocational education schools in proportion to the amount each vocational education school is entitled to receive. No moneys in the truck driver training fund shall be used for any purpose other than that specified in this subsection or for the support of truck driver training programs. The state board of ~~education~~ *regents* shall prescribe all forms necessary for reporting in connection with this act. The funds shall be distributed on or before November 1 each year.

Sec. 26. K.S.A. 8-272, 72-6405, 72-6433, 72-6438, 74-32,101 and 74-32,102 and K.S.A. 2004 Supp. 60-2102 and 72-6407 are hereby repealed.

Sec. 27. On July 1, 2005, K.S.A. 72-6405, as amended by section 44 of 2005 House Bill No. 2247, 72-6433, as amended by section 23 of 2005 House Bill No. 2247, and K.S.A. 2004 Supp. 72-6407, as amended by section 1 of 2005 House Bill No. 2059, 72-6407, as amended by section 12 of 2005 House Bill No. 2247, 74-32,101, as amended by section 11 of 2005 Senate Bill No. 48, 74-32,102, as amended by section 12 of 2005 Senate Bill No. 48, and sections 1, 19, 28, 29, 31 and 34 through 40 of 2005 House Bill No. 2247 are hereby repealed.

Sec. 28. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register May 19, 2005.)

### SENATE Substitute for HOUSE BILL No. 2037

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; benefits and contributions; amending K.S.A. 10-813a, 74-4914, 74-4925b, 74-4925e, 74-4927a, 74-4932, 74-4952 and 76-746 and K.S.A. 2004 Supp. 20-2610a, 74-4902, 74-4918, 74-4920, 74-4925 and 74-4927 and repealing the existing sections.

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

Section 1. K.S.A. 10-813a is hereby amended to read as follows: 10-813a. (a) Any balance accrued from any unpaid canceled warrant issued pursuant to the Kansas public employees retirement act shall remain in the Kansas public employees retirement fund and shall be disbursed in accordance with provisions of law relating to such fund.

(b) *The director of accounts and reports is authorized to make payment to any claimant of the Kansas public employees retirement system entitled to such payment for a claim on a warrant which was canceled pursuant to the provisions of K.S.A. 10-811, and amendments thereto. Entitlement to claim payment on a canceled warrant shall expire on the date four years from the date of cancellation of such warrant. Any such payment shall be in an amount equal to the amount denoted on the canceled warrant less 10% thereof not to exceed \$30, whichever amount is less.*

Sec. 2. K.S.A. 2004 Supp. 20-2610a is hereby amended to read as follows: 20-2610a. (a) A judge may elect to have such judge's retirement annuity paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 20-2610 and amendments thereto. Such election shall be made before the date of actual retirement. A specific person shall be designated as joint annuitant at the time of election of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, joint and survivor option and the joint and  $\frac{3}{4}$  to joint

annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the judge.

(b) The amount of retirement annuity payable under an option shall be based on the age of the judge and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto as prescribed in subsection (c). Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion. In no case shall the total amount of retirement annuity payable under any option provided in this section be more than 100% of the retirement annuity which would have been otherwise payable if no option had been elected under this section.

(c) The following retirement options, which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:

(1) *Joint and  $\frac{1}{2}$  to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 91% minus .4% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .4% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with  $\frac{1}{2}$  of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(2) *Joint and survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 83% minus .6% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .6% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with that monthly amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(3) *Joint and  $\frac{3}{4}$  to joint annuitant survivor.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to the product of (A) the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and (B) the percentage equal to 87% minus .5% for each year by which the age of the judge's joint annuitant is less than the judge's age, computed to the nearest whole year, or plus .5% for each year by which the age of the judge's joint annuitant is more than the judge's age, computed to the nearest whole year, with  $\frac{3}{4}$  of that monthly amount continued to the judge's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the judge. In the event that the designated joint annuitant under this option predeceases the retired judge, the amount of the retirement annuity otherwise payable to the judge under this option shall be adjusted automatically to the retirement annuity which the judge would have received if no option had been elected under this section.

(4) *Life with 5 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the five-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the five-year certain period.

(5) *Life with 10 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the ten-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the ten-year certain period.

(6) *Life with 15 years certain.* A reduced retirement annuity payable to the judge during the judge's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement annuity otherwise payable under K.S.A. 20-2610 and amendments thereto and if the judge dies within the fifteen-year certain period, measured from the commencement of retirement annuity payments, such monthly payments shall be continued to such judge's beneficiary during the balance of the fifteen-year certain period.

(7) *Lump sum payment at retirement.* (A) Pursuant to this option, the judge must specify a lump sum amount to be paid to the judge upon the judge's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 20-2610, and amendments thereto. The lump sum amount designated by the judge must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the benefit provided in K.S.A. 20-2610, and amendments thereto. If the judge's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (d), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the option selected in this section.

(B) Pursuant to this option, the judge must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 20-2610, and amendments thereto, or subsections (c)(1) through (c)(6) of this section.

(C) In the event that the designated joint annuitant pursuant to subsection (c)(1), (c)(2) or (c)(3), under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) The provisions of this subsection shall be effective on and after July 1, 2001.

(d) If a judge, who is eligible to retire, dies without having actually retired, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits as a joint annuitant under one of the options provided in this section in lieu of receiving the judge's accumulated contributions.

(e) On and after ~~July 1, 1993~~ *May 1, 2004*, if a judge with ~~15~~ 10 or more years of credited service dies before attaining retirement age, the judge's spouse, if the spouse is the sole beneficiary for the judge's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the judge's accumulated contributions. Payments under one of the options provided in this section to the judge's spouse if so elected, shall commence on the date that the judge would have ~~first attained retirement age~~ *been eligible for normal retirement pursuant to subsection (a) of K.S.A. 20-2608, and amendments thereto, or would have been eligible for early retirement pursuant to subsection (b) or (c) of K.S.A. 20-2608, and amendments thereto, if such early retirement date occurs earlier.*

(f) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(g) The provisions of the law in effect on the retirement date of a judge under the retirement system for judges shall govern the retirement annuity payable to the retired judge and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for judges who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (c)(1), (2) or (3), as applicable, predeceased the judge, the amount of the retirement benefit otherwise payable to the judge under the option provided in subsection (c)(1), (2) or (3), as applicable, shall be adjusted automatically to the retirement benefit which the judge would have received if no option had been elected under this section.

(h) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retired judge over the sum of all retirement benefit payments made to such retired judge and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retired judge. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (1) The joint annuitant's surviving spouse;
- (2) the joint annuitant's dependent child or children;
- (3) the joint annuitant's dependent parent or parents;
- (4) the joint annuitant's nondependent child or children;
- (5) the joint annuitant's nondependent parent or parents; or
- (6) the estate of the deceased joint annuitant.

(i) In any event, benefits shall be adjusted as necessary to satisfy the incidental death benefits regulations under the federal internal revenue code.

Sec. 3. K.S.A. 2004 Supp. 74-4902 is hereby amended to read as follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amendments thereto, unless otherwise provided or the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account, with interest allowed thereon;

(2) "acts" means the provisions of articles 49 and 49a of the Kansas Statutes Annotated and amendments thereto;

(3) "actuarial equivalent" means an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system. Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified in a way that precludes employer discretion;

(4) "actuarial tables" means the actuarial tables approved and in use by the board at any given time;

(5) "actuary" means the actuary or firm of actuaries employed or retained by the board at any given time;

(6) "agent" means the individual designated by each participating employer through whom system transactions and communication are directed;

(7) "beneficiary" means, subject to the provisions of K.S.A. 74-4927, and amendments thereto, any natural person or persons or estate named by a member to receive any benefits as provided for by this act. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living

(continued)

at time of member's death, any benefits provided for by this act shall be paid to: (A) The member's surviving spouse; (B) the member's dependent child or children; (C) the member's dependent parent or parents; (D) the member's nondependent child or children; (E) the member's nondependent parent or parents; (F) the estate of the deceased member; in the order of preference as specified in this subsection.

(8) "board of trustees," "board" or "trustees" means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;

(9) "compensation" means, except as otherwise provided, all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer's fiscal year which begins in calendar year 1991 or for employers other than the state of Kansas, beginning with the fiscal year which begins in calendar year 1992, when the compensation of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in compensation, except that (A) any amount of compensation for accumulated sick leave or vacation or annual leave paid to the member, (B) any increase in compensation for any member due to a reclassification or reallocation of such member's position or a reassignment of such member's job classification to a higher range or level and (C) any increase in compensation as provided in any contract entered into prior to January 1, 1991, and still in force on the effective date of this act, pursuant to an early retirement incentive program as provided in K.S.A. 72-5395 *et seq.* and amendments thereto, shall be included in the amount of compensation of such member used in determining such member's final average salary and shall not be subject to the 15% limitation provided in this subsection. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, beginning with the employer's fiscal year coinciding with or following July 1, 1985, compensation shall include any amounts for tax sheltered annuities or deferred compensation plans. Beginning with the employer's fiscal year which begins in calendar year 1991, compensation shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "compensation" shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto;

(10) "credited service" means the sum of participating service and prior service and in no event shall credited service include any service which is credited under another retirement plan authorized under any law of this state;

(11) "dependent" means a parent or child of a member who is dependent upon the member for at least ½ of such parent or child's support;

(12) "effective date" means the date upon which the system becomes effective by operation of law;

(13) "eligible employer" means the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned or any noncommercial public television or radio station located in this state which receives state funds allocated by the Kansas public broadcasting commission whose employees are covered by social security. If a class or several classes of employees of any above defined employer are not covered by social security, such employer shall be deemed an eligible employer

only with respect to such class or those classes of employees who are covered by social security;

(14) "employee" means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, and any such officer or employee who is concurrently employed performing similar or related tasks by two or more participating employers, who each remit employer and employee contributions on behalf of such officer or employee to the system, and whose combined employment is not seasonal or temporary, and whose combined employment requires at least 1,000 hours of work per year, but not including: (A) Any employee who is a contributing member of the United States civil service retirement system; (B) any employee who is a contributing member of the federal employees retirement system; (C) any employee who is a leased employee as provided in section 414 of the federal internal revenue code of a participating employer; and (D) any employee or class of employees specifically exempted by law. After June 30, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto, except that no person shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925 and amendments thereto. After June 30, 1982, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for any benefit under another retirement plan authorized under any law of this state, except that no such person shall receive service credit under the Kansas public employees retirement system for any period of service for which any benefit accrues or is granted under any such retirement plan. Employee shall include persons who are in training at or employed by, or both, a sheltered workshop for the blind operated by the secretary of social and rehabilitation services. The entry date for such persons shall be the beginning of the first pay period of the fiscal year commencing in calendar year 1986. Such persons shall be granted prior service credit in accordance with K.S.A. 74-4913 and amendments thereto. However, such persons classified as home industry employees shall not be covered by the retirement system. Employees shall include any member of a board of county commissioners of any county and any council member or commissioner of a city whose compensation is equal to or exceeds \$5,000 per year;

(15) "entry date" means the date as of which an eligible employer joins the system. The first entry date pursuant to this act is January 1, 1962;

(16) "executive director" means the managing officer of the system employed by the board under this act;

(17) "final average salary" means in the case of a member who retires prior to January 1, 1977, and in the case of a member who retires after January 1, 1977, and who has less than five years of participating service after January 1, 1967, the average highest annual compensation paid to such member for any five years of the last 10 years of participating service immediately preceding retirement or termination of employment, or in the case of a member who retires on or after January 1, 1977, and who has five or more years of participating service after January 1, 1967, the average highest annual compensation paid to such member on or after January 1, 1967, for any five years of participating service preceding retirement or termination of employment, or, in any case, if participating service is less than five years, then the average annual compensation paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12; in the case of a member who became a member under sub-



section (3) of K.S.A. 74-4925 and amendments thereto, or who became a member with a participating employer as defined in subsection (3) of K.S.A. 74-4931 and amendments thereto and who elects to have compensation paid in other than 12 equal installments, such compensation shall be annualized as if the member had elected to receive 12 equal installments for any such periods preceding retirement; in the case of a member who retires after July 1, 1987, the average highest annual compensation paid to such member for any four years of participating service preceding retirement or termination of employment; in the case of a member who retires on or after July 1, 1993, whose date of membership in the system is prior to July 1, 1993, and any member who is in such member's membership waiting period on July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual compensation, as defined in subsection (9), paid to such member for any four years of participating service preceding retirement or termination of employment or the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater; and in the case of a member who retires on or after July 1, 1993, and whose date of membership in the system is on or after July 1, 1993, the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment. Final average salary shall not include any purchase of participating service credit by a member as provided in subsection (2) of K.S.A. 74-4919h and amendments thereto which is completed within five years of retirement. For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or will begin paying to the system a lump-sum amount for such member's purchase or repurchase and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications. For purposes of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system. In the case of any former member who was eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto prior to July 1, 1998, for the purpose of calculating final average salary of such member, such member's final average salary shall be based on such member's salary while a member of the system or while eligible for assistance pursuant to K.S.A. 74-4925 and amendments thereto, whichever is greater;

(18) "fiscal year" means, for the Kansas public employees retirement system, the period commencing July 1 of any year and ending June 30 of the next;

(19) "Kansas public employees retirement fund" means the fund created by this act for payment of expenses and benefits under the system and referred to as the fund;

(20) "leave of absence" means a period of absence from employment without pay, authorized and approved by the employer, and which after the effective date does not exceed one year;

(21) "member" means an eligible employee who is in the system and is making the required employee contributions; any former employee who has made the required contributions to the system and has not received a refund if such member is within five years of termination of employment with a participating employer; or any former employee who has made the required contributions to the system, has not yet received a refund and has been granted a vested benefit;

(22) "military service" means service in the uniformed forces of the United States, for which retirement benefit credit must be given under the provisions of USERRA or service in the armed forces of the United States or in the commissioned corps of the United States public health service, which service is immediately preceded by a period of employment as an employee or by the entering into of an employment contract with a participating employer and is followed by return to employment as an employee with the same or another participating employer within 12 months immediately following discharge from such military service, except that if the board determines that such return within 12 months was made impossible by reason of a service-connected disability, the period within which the employee must return to employment with a participating employer shall be extended not more than two years from the date of discharge or separation from military service;

(23) "normal retirement date" means the date on or after which a member may retire with full retirement benefits pursuant to K.S.A. 74-4914 and amendments thereto;

(24) "participating employer" means an eligible employer who has agreed to make contributions to the system on behalf of its employees;

(25) "participating service" means the period of employment after the entry date for which credit is granted a member;

(26) "prior service" means the period of employment of a member prior to the entry date for which credit is granted a member under this act;

(27) "prior service annual salary" means the highest annual salary, not including any amounts received as payment for overtime or as reimbursement for travel or moving expense, received for personal services by the member from the current employer in any one of the three calendar years immediately preceding January 1, 1962, or the entry date of the employer, whichever is later, except that if a member entered the employment of the state during the calendar year 1961, the prior service annual salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(28) "retirant" means a member who has retired under this system;

(29) "retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification a surviving spouse may negotiate the warrant issued in the name of the retirant. If there is no surviving spouse, the last warrant shall be payable to the designated beneficiary;

(30) "retirement system" or "system" means the Kansas public employees retirement system as established by this act and as it may be amended;

(31) "social security" means the old age, survivors and disability insurance section of the federal social security act;

(32) "~~total disability" means a physical or mental disability which prevents the member from engaging, for remuneration or profit, in any occupation for which the member is reasonably suited by education, training or experience;~~

~~—(33) "trust" means an express trust, created by a trust instrument, including a will, designated by a member to receive payment of the insured death benefit under K.S.A. 74-4927 and amendments thereto and payment of the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust shall be filed with the board. If there is a designated trust at the time of the member's death, the insured death benefit for the member under K.S.A. 74-4927 and amendments thereto and the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid to the trust in lieu of the member's beneficiary. If no will is admitted~~

(continued)

to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, the insured death benefit under K.S.A. 74-4927 and amendments thereto and the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid in accordance with the provisions of subsection (7) of this section as in other cases where there is no named beneficiary living at the time of the member's death and any payments so made shall be a full discharge and release to the system from any further claims;

~~(34)~~ (33) "salary" means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and, as the board deems appropriate, any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. For purposes of applying limits under the federal internal revenue code "salary" shall have the meaning as provided in K.S.A. 74-49,123 and amendments thereto. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

~~(35)~~ (34) "federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as in effect on July 1, 2002, and as applicable to a governmental plan; and

~~(36)~~ (35) "USERRA" means the federal uniformed services employment and reemployment rights act of 1994 as in effect on July 1, 1998.

Sec. 4. K.S.A. 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 30 days and the attainment of age 65 or, commencing July 1, 1993, age 62 with the completion of 10 years of credited service or the first day of the month coinciding with or following the date that the total of the number of years of credited service and the number of years of attained age of the member is equal to or more than 85. In no event shall a normal retirement date for a member be before six months after the entry date of the participating employer by whom such member is employed. A member may retire on the normal retirement date or on the first day of any month thereafter upon the filing with the office of the retirement system of an application in such form and manner as the board shall prescribe. Nothing herein shall prevent any person, member or retiree from being employed, appointed or elected as an employee, appointee, officer or member of the legislature. Elected officers may retire from the system on any date on or after the attainment of the normal retirement date, but

no retirement benefits payable under this act shall be paid until the member has terminated such member's office.

(2) No retiree shall make contributions to the system or receive service credit for any service after the date of retirement.

(3) Any member who is an employee of an affiliating employer pursuant to K.S.A. 74-4954b and amendments thereto and has not withdrawn such member's accumulated contributions from the Kansas police and firemen's retirement system may retire before such member's normal retirement date on the first day of any month coinciding with or following the attainment of age 55.

(4) Any member may retire before such member's normal retirement date on the first day of any month coinciding with or following termination of employment with any participating employer not followed by employment with any participating employer within 30 days and the attainment of age 55 with the completion of 10 years of credited service, but in no event before six months after the entry date, upon the filing with the office of the retirement system of an application for retirement in such form and manner as the board shall prescribe.

(5) If a retiree who retired on or after July 1, 1988, is employed or appointed in or to any position or office for which compensation for service is paid in an amount equal to \$15,000 or more in any one such calendar year, by any participating employer for which such retiree was employed or appointed during the final two years of such retiree's participation, such retiree shall not receive any retirement benefit for any month for which such retiree serves in such position or office. The participating employer shall report to the system within 30 days of when the compensation paid to the retiree is equal to or exceeds any limitation provided by this section. Any retiree employed by a participating employer 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 retirees employed as substitute teachers or officers, employees or appointees of the legislature. The provisions of this subsection shall not apply to members of the legislature prior to January 8, 2000. The provisions of this subsection shall not apply to any other elected officials prior to the term of office of such elected official which commences on or after July 1, 2000. The provisions of this subsection shall apply to any other elected official which commences on or after July 1, 2000. Except as otherwise provided, commencing January 8, 2001, the provisions of this subsection shall apply to members of the legislature. For determination of the amount of compensation paid pursuant to this subsection, for members of the legislature, compensation shall include any amount paid as provided pursuant to subsections (a), (b), (c) and (d) of K.S.A. 46-137a, and amendments thereto, or pursuant to K.S.A. 46-137b, and amendments thereto. Notwithstanding any provision of law to the contrary, when a member of the legislature is paid an amount of compensation of \$15,000 or more in any one calendar year, the member may continue to receive any amount provided in subsections (b) and (d) of K.S.A. 46-137a, and amendments thereto, and still be entitled to receive such member's retirement benefit. *Commencing July 1, 2005, and ending June 30, 2008, the provisions of this subsection shall not apply to retirees 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 at the Osawatimie state hospital, Rainbow mental health facility, Larned state hospital, Parsons state hospital and training center, Kansas neurological institute, the Kansas soldiers' home or the Kansas veterans' home. The participating employer of such retiree shall pay to the system the actuarially determined employer contribution based on the retiree's compensation during any such period of employment.*

(6) For purposes of this section, any employee of a local governmental unit which has its own pension plan who becomes an employee of a participating employer as a result of a merger or consolidation of services provided by local governmental units, which occurred on January 1, 1994, may count service with such local governmental unit in determining whether such employee has met the years of credited service requirements contained in this section.

Sec. 5. K.S.A. 2004 Supp. 74-4918 is hereby amended to read as follows: 74-4918. (1) A member may elect to have such member's retirement benefit paid under one of the options provided in this section in lieu of having it paid in the form stated in K.S.A. 74-4915 and amendments thereto. Such election must be made before the date of actual retirement. A specific person must be designated as joint annuitant at the time of election of the joint and  $\frac{1}{2}$  to joint annuitant survivor option, the joint and survivor option and the joint and  $\frac{3}{4}$  to joint annuitant survivor option. Under no circumstances may an option be changed or canceled nor the named joint annuitant changed after the date of actual retirement of the member.

(2) The amount of retirement benefit payable under an option shall be based on the age of the member and, if applicable, the age of the joint annuitant, and shall be such amount as to be the actuarial equivalent of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto, as prescribed in subsection (3). In no case shall the total amount of retirement benefit paid under any option provided in this section be more than 100% of the retirement benefit which would have been otherwise payable if no option had been elected under this section.

(3) The following retirement options, which are subject to the provisions of K.S.A. 74-49,123 and amendments thereto, are available:

(A) *Joint and  $\frac{1}{2}$  to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 91% minus .4% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .4% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with  $\frac{1}{2}$  of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(B) *Joint and survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 83% minus .6% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .6% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with that amount continued to the joint annuitant during the joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(C) *Joint and  $\frac{3}{4}$  to joint annuitant survivor.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to the product of (i) the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and (ii) the percentage equal to 87% minus

.5% for each year by which the age of the retirant's joint annuitant is less than the retirant's age, computed to the nearest whole year, or plus .5% for each year by which the age of the retirant's joint annuitant is more than the retirant's age, computed to the nearest whole year, with  $\frac{3}{4}$  of that monthly amount continued to the retirant's joint annuitant during such joint annuitant's remaining lifetime, if any, after the death of the retirant. In the event that the designated joint annuitant under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(D) *Life with 5 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 98% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the five-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the five-year certain period.

(E) *Life with 10 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 95% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the ten-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the ten-year certain period.

(F) *Life with 15 years certain.* A reduced retirement benefit is payable to the retirant during the retirant's lifetime in a monthly amount equal to 88% of the monthly payment of the retirement benefit otherwise payable under K.S.A. 74-4915 and amendments thereto and if the retirant dies within the fifteen-year certain period, measured from the commencement of retirement benefit payments, such payments shall be continued to the retirant's beneficiary during the balance of the fifteen-year certain period.

(G) *Lump sum payment at retirement.* (i) Pursuant to this option, the member must specify a lump sum amount to be paid to the member upon the member's retirement. The lump sum amount will be based on the actuarial present value of the benefit as provided in K.S.A. 74-4915, and amendments thereto. The lump sum amount designated by the member must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the benefit provided in K.S.A. 74-4915, and amendments thereto. If the member's spouse elects a lump sum payment as provided in this section pursuant to the provisions of subsection (4), the lump sum payment will be based on the present value of the retirement option selected by the spouse. The lump sum amount designated by the spouse must be in 10% increments and shall not exceed  $\frac{1}{2}$  of the actuarial present value of the option selected in this section.

(ii) Pursuant to this option, the member must elect to have the remaining actuarial present value paid in a monthly amount under the provisions of K.S.A. 74-4915, and amendments thereto, or subsections (3)(A) through (3)(F) of this section.

(iii) In the event that the designated joint annuitant pursuant to subsection (3)(A), (3)(B) or (3)(C) under this option predeceases the retirant, the amount of the retirement benefit otherwise payable to the retirant under this option shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(iv) The provisions of this subsection shall be effective on and after July 1, 2001.

(4) If a member, who is eligible to retire in accordance with the provisions of K.S.A. 74-4914 and amendments thereto, dies without having actually retired, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect

(continued)

to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions.

(5) The benefits of subsection (4) shall be available in the case of death within the first six months after the entry date of the member's participating employer.

(6) On and after ~~January 1, 1991~~ *May 1, 2004*, if a member with ~~15~~ 10 or more years of credited service dies before attaining retirement age, the member's spouse, if the spouse is the sole beneficiary for the member's accumulated contributions, may elect to receive benefits under one of the options provided in this section in lieu of receiving the member's accumulated contributions. Payments under one of the options provided in this section to the member's spouse if so elected, shall commence on the date that the member would have ~~attained retirement age~~ *been eligible for normal retirement pursuant to subsection (1) of K.S.A. 74-4914, and amendments thereto, or would have been eligible for early retirement pursuant to subsection (4) of K.S.A. 74-4914, and amendments thereto, if such early retirement date occurs earlier.*

(7) Benefits payable to a joint annuitant shall accrue from the first day of the month following the death of a member or retirant and, in the case of the joint and 1/2 to joint annuitant survivor option, the joint and survivor option and the joint and 3/4 to joint annuitant survivor option, shall end on the last day of the month in which the joint annuitant dies.

(8) The provisions of the law in effect on the retirement date of a member under the system shall govern the retirement benefit payable to the retirant and any joint annuitant, except, for retirement benefits payable after July 1, 1993, for retirants who retired prior to July 1, 1982, in the event that the designated joint annuitant under the option provided in subsection (3)(A), (B) or (C), as applicable, predeceased the retirant, the amount of the retirement benefit otherwise payable to the retirant under the option provided in subsection (3)(A), (B) or (C), as applicable, shall be adjusted automatically to the retirement benefit which the retirant would have received if no option had been elected under this section.

(9) Upon the death of a joint annuitant who is receiving a retirement benefit under the provisions of this section, there shall be paid to such joint annuitant's beneficiary an amount equal to the excess, if any, of the accumulated contributions of the retirant over the sum of all retirement benefit payments made to such retirant and such joint annuitant. Such joint annuitant shall designate a beneficiary by filing in the office of the retirement system such designation at the time of death of the retirant. If there is no named beneficiary of such joint annuitant living at the time of death of such joint annuitant, any amount provided for by this section shall be paid to, in order of preference as follows:

- (A) The joint annuitant's surviving spouse;
- (B) the joint annuitant's dependent child or children;
- (C) the joint annuitant's dependent parent or parents;
- (D) the joint annuitant's nondependent child or children;
- (E) the joint annuitant's nondependent parent or parents; or
- (F) the estate of the deceased joint annuitant.

Sec. 6. K.S.A. 2004 Supp. 74-4920 is hereby amended to read as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year, to the division of the budget in the case of the state and to the agent for each other participating employer an actuarially determined estimate of the rate of contribution which will be required, together with all accumulated contributions and other assets of the system, to be paid by each such participating employer to pay all liabilities which shall exist or accrue under the system, including amortization of the actuarial accrued liability as determined by the board. The board shall determine the actuarial cost method to be used in annual actuarial valuations, to determine the employer contribution rates that shall be certified by the board. Such certified rate of contribution, amortization methods and periods and actuarial cost method shall be based on the standards set forth in subsection

(3)(a) of K.S.A. 74-4908 and amendments thereto and shall not be based on any other purpose outside of the needs of the system.

(b) (i) For employers affiliating on and after January 1, 1999, upon the basis of an annual actuarial valuation and appraisal of the system conducted in the manner provided for in K.S.A. 74-4908 and amendments thereto, the board shall certify, on or before July 15 of each year to each such employer an actuarially determined estimate of the rate of contribution which shall be required to be paid by each such employer to pay all of the liabilities which shall accrue under the system from and after the entry date as determined by the board, upon recommendation of the actuary. Such rate shall be termed the employer's participating service contribution and shall be uniform for all participating employers. Such additional liability shall be amortized as determined by the board. For all participating employers described in this section, the board shall determine the actuarial cost method to be used in annual actuarial valuations to determine the employer contribution rates that shall be certified by the board.

(ii) The board shall determine for each such employer separately an amount sufficient to amortize all liabilities for prior service costs which shall have accrued at the time of entry into the system. On the basis of such determination the board shall annually certify to each such employer separately an actuarially determined estimate of the rate of contribution which shall be required to be paid by that employer to pay all of the liabilities for such prior service costs. Such rate shall be termed the employer's prior service contribution.

(2) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services the sum required to satisfy the state's obligation under this act as certified by the board and shall present the same to the legislature for allowance and appropriation.

(3) Each other participating employer shall appropriate and pay to the system a sum sufficient to satisfy the obligation under this act as certified by the board.

(4) Each participating employer is hereby authorized to pay the employer's contribution from the same fund that the compensation for which such contribution is made is paid from or from any other funds available to it for such purpose. Each political subdivision, other than an instrumentality of the state, which is by law authorized to levy taxes for other purposes, may levy annually at the time of its levy of taxes, a tax which may be in addition to all other taxes authorized by law for the purpose of making its contributions under this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774 and amendments thereto by cities located in the county, which tax, together with any other fund available, shall be sufficient to enable it to make such contribution. In lieu of levying the tax authorized in this subsection, any taxing subdivision may pay such costs from any employee benefits contribution fund established pursuant to K.S.A. 12-16,102 and amendments thereto. Each participating employer which is not by law authorized to levy taxes as described above, but which prepares a budget for its expenses for the ensuing year and presents the same to a governing body which is authorized by law to levy taxes as described above, may include in its budget an amount sufficient to make its contributions under this act which may be in addition to all other taxes authorized by law. Such governing body to which the budget is submitted for approval, may levy a tax sufficient to allow the participating employer to make its contributions under this act, which tax, together with any other fund available, shall be sufficient to enable the participating employer to make the contributions required by this act.

(5) (a) The rate of contribution certified to a participating employer as provided in this section shall apply during the fiscal year of the participating employer which begins in the second calendar year following the year of the actuarial valuation.

(b) (i) Except as specifically provided in this section, for fiscal years commencing in calendar year 1996 and in each subsequent calendar year, the rate of contribution certified to the state of Kansas shall in no event exceed the state's contribution rate for the imme-

diately preceding fiscal year by more than 0.2% of the amount of compensation upon which members contribute during the period.

(ii) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to the state of Kansas *and to the participating employers under K.S.A. 74-4931, and amendments thereto* shall in no event exceed the state's contribution rate for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2005, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2007 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

(iii) Except as specifically provided in this section, for fiscal years commencing in calendar year 1997 and in each subsequent calendar year, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed such participating employer's contribution rate for the immediately preceding fiscal year by more than 0.15% of the amount of compensation upon which members contribute during the period.

(iv) Except as specifically provided in this subsection, for the fiscal years commencing in the following calendar years, the rate of contribution certified to participating employers other than the state of Kansas shall in no event exceed the contribution rate for such employers for the immediately preceding fiscal year by more than the following amounts expressed as a percentage of compensation upon which members contribute during the period: (A) For the fiscal year commencing in calendar year 2006, an amount not to exceed more than 0.4% of the amount of the immediately preceding fiscal year; (B) for the fiscal year commencing in calendar year 2007, an amount not to exceed more than 0.5% of the amount of the immediately preceding fiscal year; and (C) for the fiscal year commencing in calendar year 2008 and in each subsequent calendar year, an amount not to exceed more than 0.6% of the amount of the immediately preceding fiscal year.

(v) ~~As part of the annual actuarial valuation, there shall be a separate employer rate of contribution certified to calculated for the state of Kansas. There shall be, a separate employer rate of contribution certified to calculated for participating employers under K.S.A. 74-4931 and amendments thereto, a combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, and a separate employer rate of contribution calculated for all other participating employers. There shall be a separate employer rate of contribution certified to all other participating employers.~~

(vi) ~~There shall be a separate employer rate of contribution certified to the state of Kansas. There shall be a separate employer rate of contribution certified to participating employers under K.S.A. 74-4931, and amendments thereto. There shall be a separate employer rate of contribution certified to all other participating employers.~~

(vii) ~~If the combined employer rate of contribution calculated for the state of Kansas and participating employers under K.S.A. 74-4931, and amendments thereto, is greater than the separate employer rate of contribution for the state of Kansas, the difference in the two rates applied to the actual payroll of the state of Kansas for the applicable fiscal year shall be calculated. This amount shall be certified by the board as additional employer contributions for the participating employers under K.S.A. 74-4931, and amendments thereto, to the division of budget and governor who shall include in the budget each year thereafter provisions for the transfer from the state general fund of sufficient sums to satisfy this obligation. This amount shall be distributed through the same procedure as followed for the employer contribution payments under K.S.A. 74-4939 and K.S.A. 74-4939a, and amendments thereto, and then remitted by the partici-~~

~~ating employers to the Kansas public employees retirement system for deposit as additional employer contributions to the retirement benefit accumulation reserve for the participating employers under K.S.A. 74-4931, and amendments thereto.~~

(6) The actuarial cost of any legislation enacted in the 1994 session of the Kansas legislature will be included in the June 30, 1994, actuarial valuation in determining contribution rates for participating employers.

(7) The actuarial cost of the provisions of K.S.A. 74-4950i will be included in the June 30, 1998, actuarial valuation in determining contribution rates for participating employers. The actuarial accrued liability incurred for the provisions of K.S.A. 74-4950i shall be amortized over 15 years.

(8) Except as otherwise provided by law, the actuarial cost of any legislation enacted by the Kansas legislature, except the actuarial cost of K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the employer contribution rates certified for the employer contribution rate in the fiscal year immediately following such enactment.

(9) Notwithstanding the provisions of subsection (8), the actuarial cost of the provisions of K.S.A. 74-49,109 *et seq.* and amendments thereto shall be first reflected in employer contribution rates effective with the first day of the first payroll period for the fiscal year 2005. The actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109 *et seq.* and amendments thereto shall be amortized over 10 years.

(10) The board with the advice of the actuary may fix the contribution rates for participating employers joining the system after one year from the first entry date or for employers who exercise the option contained in K.S.A. 74-4912 and amendments thereto at rates different from the rate fixed for employers joining within one year of the first entry date.

(11) For employers affiliating on and after January 1, 1999, the rates of contribution certified to the participating employer as provided in this section shall apply during the fiscal year immediately following such certification, but the rate of contribution during the first year following the employer's entry date shall be equal to 7% of the amount of compensation on which members contribute during the year. Any amount of such first year's contribution which may be in excess of the necessary current service contribution shall be credited by the board to the respective employer's prior service liability.

(12) Employer contributions shall in no way be limited by any other act which now or in the future establishes or limits the compensation of any member.

(13) Notwithstanding any provision of law to the contrary, each participating employer shall remit quarterly, or as the board may otherwise provide, all employee deductions and required employer contributions to the executive director for credit to the Kansas public employees retirement fund within three days after the end of the period covered by the remittance by electronic funds transfer. Remittances of such deductions and contributions received after such date are delinquent. Delinquent payments due under this subsection shall be subject to interest at the rate established for interest on judgments under subsection (a) of K.S.A. 16-204 and amendments thereto. At the request of the board, delinquent payments which are due or interest owed on such payments, or both, may be deducted from any other moneys payable to such employer by any department or agency of the state.

Sec. 7. K.S.A. 2004 Supp. 74-4925 is hereby amended to read as follows: 74-4925. (1) The state board of regents shall:

(a) ~~Assist Sponsor and maintain a retirement plan under section 403(b) of the federal internal revenue code for all those members of the faculty and other persons who are employed by the state board of regents or by educational institutions under its the board's management and who are in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, except health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, in~~

(continued)

the purchase of retirement annuities for their service rendered after December 31, 1961; including effective on the first day of the first payroll period commencing with or following July 1, 1994, county extension agents employed by Kansas state university under K.S.A. 2-615, and amendments thereto shall be eligible for assistance by the state board of regents in the purchase of retirement annuities under this section. the state board of regents shall not assist any such person, except not including: (i) Health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935, and amendments thereto; (ii) cooperative extension service employees covered by a federal retirement plan; or (iii) student employees. An eligible employee who is employed after December 31, 1961, until such person has been employed for a waiting period of at least one year except that (i) the state board of regents may assist any newly employed person immediately if at the time of the commencement of employment the person is covered by a valid retirement annuity contract issued by a company described in subsection (2) which was entered into pursuant to a retirement pension plan adopted for faculty members or other persons, or both, employed by an institution of higher education and to which such person or such person's employer on such person's behalf has been making contributions for at least one year, and (ii) all periods of employment with (A) participating employers under the Kansas public employees retirement system, for which employment participating service credit accrued, or (B) institutions of higher education in other states for which employment retirement benefits accrued under a retirement system or plan provided for such employment, shall be credited toward satisfaction of such one-year waiting period if served, in either case, during the five years immediately preceding employment with the state board of regents or with an educational institution under its management in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, in addition to such employment with the state board of regents or with an educational institution under its management, no period of employment as a student employee, as a seasonal or temporary employee or as a part-time employee, whose employment requires less than 1,000 hours of work per year, shall be credited toward the one-year waiting period under subsection (1)(a), this act shall not apply to persons employed in such temporary and part-time positions designated by the state board of regents as exceptions hereto shall participate in such retirement plan when the employee has completed one year of service with the state board of regents or an educational institution under its management, except that: (i) A newly employed eligible employee shall begin participation in the plan immediately, if at the time of the commencement of employment, the eligible employee is covered as a result of employment with an institution of higher education located in the United States, by a retirement plan or program to which employer contributions have been made and benefits accrued for at least one year within the five-year period immediately preceding employment with the state board of regents or with an educational institution under its management; and (ii) all service while in a position eligible for benefits under any state of Kansas retirement plan with respect to which the employee's participation is mandatory, including service during such plan's waiting period, shall be credited toward the year of service requirement, and an eligible employee who has at least one year in a position eligible for benefits under such retirement plan shall be immediately eligible to participate in the state board of regents retirement plan, except that this one-year period must be completed within the five-year period immediately preceding employment with the state board of regents or with an educational institution under the board's management. For purposes of the immediately preceding clauses (i) and (ii), no period of employment as a student employee, seasonal or temporary employee or employee who works less than half-time shall count toward satisfaction of the year of service requirement. The state board of regents may exclude from eligibility under this subsection any persons employed in such temporary or part-time positions as the board designates;

(b) require such members of the faculty and others described in subsection (1)(a) who are so assisted by eligible to participate in the retirement plan of the state board of regents, as provided in subsection (1)(a), to contribute an amount toward the purchase of such retirement annuities of to such plan equal to 5.5% of their salaries such member's compensation, such contributions to be made through payroll deductions and on a pretax basis;

(c) contribute an amount toward the purchase of such retirement annuities to the retirement plan of the state board of regents, as provided in subsection (1)(a), equal to the percentage amount, as prescribed by K.S.A. 74-4925e and amendments thereto, of the total amount of the salaries compensation on which such members of the faculty and others other persons described in subsection (1)(a) contribute during such period for which the contribution of the state board of regents is made; and

(d) provide, under such rules and regulations as the state board of regents may adopt, for the retirement of any such member of the faculty or other person described in subsection (1)(a) on account of age or condition of health, retirement of such member of the faculty or other person described in subsection (1)(a) on account of age to be not earlier than the 55th birthday and prior to January 1, 1994, not later than the end of the academic year following the 70th year. On and after January 1, 1994, there shall be no mandatory retirement on account of age. Any person who retires under this section and who receives benefits from the Kansas public employees retirement system for prior service credit shall have such benefits calculated in accordance with the applicable provisions of K.S.A. 74-4914 and 74-4915 and amendments thereto make the contributions required under subsections (1)(b) and (1)(c) in accordance with section 403(b) of the federal internal revenue code and all other applicable sections of the federal internal revenue code and the applicable regulations thereunder.

(2) For the purposes of this section the state board of regents may contract with:

(a) Any life insurance company authorized to do business in this state; or

(b) any life insurance company organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding and strengthening educational institutions by issuing insurance and annuity contracts only to or for the benefit of such institution and individuals engaged in the services of such institutions, whether or not such company is authorized to do business in Kansas. No premium tax or income tax shall be due or payable on such annuity contract or contracts for such retirement programs issued by a company described in this subsection (2)(b), except that neither the purchase nor the issuance of such retirement annuities from or by a company described in this subsection (2)(b) shall constitute the effecting of a contract of insurance a bank or approved non-bank trustee or custodian under section 401(f) of the federal internal revenue code, the assets of which are invested in regulated investment company stock.

(3) (a) Such member of the faculty or other person described in subsection (1)(a) shall also be a member of the Kansas public employees retirement system, but only for the purpose of granting retirement benefits based on prior service only which was rendered prior to January 1, 1962, which shall be credited to the member as provided in subsection (1) of K.S.A. 74-4913 and amendments thereto, except that such member of the faculty or other person described in subsection (1)(a) who was employed prior to July 1, 1962, who has not yet retired and who is employed on July 1, 1988, on an academic year contract, shall receive credit for 12 months of prior service for each nine months of prior service for which such member or person was employed on an academic year contract prior to July 1, 1962. For the purpose of determining eligibility for a vested benefit, service by such a member of the faculty or other person after December 31, 1961, shall be construed to be credited service under subsection (2) of K.S.A. 74-4917 and amendments thereto.

(b) Any member of the faculty or other person described in subsection (1)(a) who retires after 10 years of continuous service immediately preceding retirement shall be granted a retirement benefit based on prior service only which was rendered prior to January 1, 1962. Application for such benefit shall be in such form and manner as prescribed by the board ~~shall prescribe of trustees of the Kansas public employees retirement system.~~

(4) For the purpose of establishing a procedure whereby the state board of regents and any member of the faculty or other person described in subsection (1)(a), subject to rules and regulations of the state board of regents, may take advantage of section 403(a) or (b) of the federal internal revenue code of 1986 or any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income, any member of the faculty or any other person described in subsection (1)(a), whether or not such person has satisfied the one-year waiting period requirement under subsection (1)(a), may request in writing that the state board of regents reduce such person's annual salary, as fixed by the board, in an amount equal to not less than 5% nor more than the percentage allowed under section 403(b) of the federal internal revenue code of 1986, as designated by such member of the faculty or other person described in subsection (1)(a), of the gross amount of such annual salary. In the event of such request by a faculty member or other person who is required to make the contribution as provided in subsection (1)(b), such person shall not be required to make such contribution and the state board of regents shall provide a sum equal to the percentage amount, as prescribed by K.S.A. 74-4925c and amendments thereto, of the gross annual salary of the member of the faculty or other person and shall purchase for and on behalf of each such person whose salary has been so reduced a retirement annuity contract or contracts, the annual premiums for which shall be equal to the sum of the amount of the salary reduction of the member of the faculty or other person and the amount paid by the state board of regents. In the event of such request by a faculty member or other person who is serving the one-year waiting period pursuant to subsection (1)(a) who is not required to make the contribution as provided in subsection (1)(b), the state board of regents shall purchase for and on behalf of each such person whose salary has been so reduced a retirement annuity contract or contracts, the annual premiums for which shall be equal to the sum of the amount of the salary reduction of the member of the faculty or other person, but the state board of regents shall not provide the sum equal to the percentage amount, as prescribed by K.S.A. 74-4925c and amendments thereto, of the gross annual salary of such person as provided for such person who is required to make the contribution as provided in subsection (1)(b). Such retirement annuity contracts may be purchased by the state board of regents from companies described in subsection (2)(a) and subsection (2)(b) or from noninsurance companies who offer retirement plans that meet the requirements of section 403(b) of the federal internal revenue code of 1986, except that the state board of regents may require that the first 5% of the gross amount of such person's annual salary which is reduced under this subsection (4) and the amount equal to the percentage amount, as prescribed by K.S.A. 74-4925c and amendments thereto, of the gross amount of such person's annual salary which is provided by the state board of regents for the purchase of retirement annuity contracts under this subsection (4), if required to be provided under this subsection (4), shall be used to purchase such retirement annuity contracts from such company or companies as may be designated by the state board of regents for such purposes. The director of accounts and reports is authorized to draw warrants on the state treasurer upon the filing with the director of proper vouchers for the amount of the premium on the retirement annuity contract to be paid pursuant to the terms of such contracts and this act.

(5) All employees who are described in subsection (1)(a) and who commence such employment on and after July 1, 1976, shall receive assistance under subsection (1) and shall be covered by a

valid retirement annuity contract issued by a company described in subsection (2).

(6) Any employee of the state board of regents or of an educational institution under its management, 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 this section 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 employee transfers to a position in the classified service under the Kansas civil service act with the state board of regents or an educational institution under its management, shall become a member of the Kansas public employees retirement system in accordance with the provisions of subsection (5) of K.S.A. 74-4911 and amendments thereto, unless such employee files a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board of trustees thereof, to remain eligible for assistance by the state board of regents under this section. Any employee who becomes eligible to participate in the retirement plan of the state board of regents, as provided in subsection (1)(a), after a reclassification or transfer from a position covered by the Kansas public employees retirement system, and who has accrued benefits under the Kansas public employees retirement system, may file a one-time, irrevocable written election to continue participation in the Kansas public employees retirement system. Failure to file such written election shall be presumed to be an election not to continue participation in the Kansas public employees retirement system and to become a participant in the retirement plan of the state board of regents. Any participant in the retirement plan of the state board of regents who is reclassified or transferred to a position for the state board of regents or an educational institution under its management that qualifies for participation in the Kansas public employees retirement system in accordance with subsection (5) of K.S.A. 74-4911, and amendments thereto, may file a one-time irrevocable written election to continue participation in the retirement plan of the state board of regents. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents under this section and to become a member of the Kansas public employees retirement system under subsection (5) of K.S.A. 74-4911, and amendments thereto. Such election shall be filed prior to the first day of the first complete payroll period occurring after the effective date of such reclassification or transfer, and shall be effective on the first day of the first complete payroll period 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 eligible for assistance by the state board of regents under this section and to become a member of the Kansas public employees retirement system under subsection (5) of K.S.A. 74-4911 and amendments thereto. Such election, whether to remain eligible for such assistance or to become a member of such system, shall be effective as of the effective date of such reclassification or transfer and shall be irrevocable.

(5) A participant in the retirement plan of the state board of regents, as provided in subsection (1)(a), who takes a leave of absence and accepts a position in the executive branch of government of the state of Kansas may file a one-time, irrevocable written election to continue participation in such retirement plan. Such election shall be filed prior to the first day of the first complete payroll period after commencement of service for the executive branch of government, and shall be effective as of the effective date of such employment. Failure to file such a written election shall be presumed to be an election not to continue participation in the retirement plan of the state board of regents. The state board of regents shall contribute an amount to the retirement plan on behalf of an eligible employee who has made such an election equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, of the employee's compensation from the state for providing such services.

(continued)

(6) A participant in the retirement plan of the state board of regents, as provided in subsection (1)(a), who takes a leave of absence and is elected or appointed as a member of the legislature of the state of Kansas may file a one-time, irrevocable written election to continue participation in such retirement plan for purposes of subsection (1)(c) only. Such election shall be filed prior to the first day of the first complete payroll period after commencement of service for the legislature or, for any employee who is a member of the legislature on January 8, 2001, prior to the first day of the first complete payroll period after July 1, 2001. Elections shall be effective as of the effective date of such employment, except that for any employee who files an election as provided in this subsection and who was a member of the legislature on January 8, 2001, such election shall be effective on January 8, 2001. Failure to file such a written election shall be presumed to be an election not to continue participation in the retirement plan of the state board of regents. The state board of regents shall contribute an amount to the retirement plan on behalf of an eligible employee who has made such an election equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, of the compensation of such employee in effect on the date immediately preceding such leave of absence. Any employee who makes an election as provided under this subsection shall be eligible for the insured death benefit and insured disability benefit in the same manner as provided under the provisions of K.S.A. 74-4927a, and amendments thereto. The provisions of this subsection are intended to further the public policy of encouraging persons to serve in elective office.

(7) The state board of regents shall adopt uniform rules, regulations and policies applicable to members of the faculty and other persons, who are employed by the state board of regents or by any educational institution under its management and who are in the unclassified service under the Kansas civil service act as provided in subsection (1)(f) of K.S.A. 75-2935 and amendments thereto, except health care employees, as defined by subsection (1)(f) of K.S.A. 75-2935 and amendments thereto described in subsection (1)(a), for the purposes of administering the provisions of this section and the provision of retirement annuities and other benefits hereunder retirement plan of the state board of regents, as provided in subsection (1)(a). All assistance provided actions undertaken by the state board of regents for such persons, and agreements entered into therefor, pursuant to this section prior to the effective date are hereby authorized, confirmed and validated.

(8) Any employee described in subsection (1)(a) who is on leave of absence and who accepts a position in the executive branch of government may file a written election in the office of the Kansas public employees retirement system, in the form and manner prescribed by the board, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the commencement of such service in the executive branch of government. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents. The state board of regents shall contribute an amount toward the purchase of retirement annuities on behalf of such employee equal to the sum of the amounts provided in subsection (1)(c).

(9) Any employee described in subsection (1)(a) who is on leave of absence and who is elected or appointed as a member of the legislature may file a written election in the office of the state board of regents, in the form and manner prescribed by the board, to remain eligible for assistance by the state board of regents under this section prior to the first day of the first complete payroll period occurring after the commencement of such service in the legislature or for any employee who is a member of the legislature on January 8, 2001, prior to the first day of the first complete payroll period occurring after July 1, 2001. Failure to file such written election shall be presumed to be an election not to remain eligible for assistance by the state board of regents. For any employee who files an election as provided in this subsection and who was a member of the legis-

lature on January 8, 2001, such election shall be effective on January 8, 2001. The state board of regents shall contribute an amount toward the purchase of retirement annuities on behalf of such employee equal to the percentage amount, as prescribed by K.S.A. 74-4925e, and amendments thereto, on the biweekly rate of the salary of such employee with the state board of regents in effect on the date preceding such leave of absence and continuing throughout such leave of absence. Any such employee who makes an election as provided by this subsection shall be eligible for the insured death benefit and insured disability benefit in the same manner as provided under the provisions of K.S.A. 74-4927a, and amendments thereto. The provisions of this section are intended to further the public policy of encouraging persons to serve in elective office.

(10) Any employee who filed a written election under subsection (9) prior to July 1, 2001, and who is a member of the legislature after January 14, 2002, may file a written election in the office of the state board of regents, in a form and manner prescribed by the board, to be eligible for an amount to be contributed for any periods prior to January 8, 2001, that an employee was on leave of absence and who was elected or appointed as a member of the legislature. The board of regents shall submit a request to the director of legislative administrative services to calculate an amount to be contributed toward the purchase of the employee's retirement annuities and to include in the request a certification of the dates for leaves of absence taken by the employee prior to January 8, 2001, for the purpose of serving in the legislature during regular sessions. The amount shall be calculated by the director of legislative administrative services for periods during which the legislature was in regular session, first by annualizing the compensation and expenses allowance under subsections (a) and (b) of K.S.A. 46-137a and amendments thereto paid to any such legislator during those periods, and second, by applying the annual interest earnings assumed by the board of trustees of the Kansas public employees retirement system for the purpose of anticipating actuarial gains on investments for the same time periods. The amount calculated by the director of legislative administrative services shall be submitted to the board of regents. The board of regents shall contribute such amount submitted toward the purchase of retirement annuities on behalf of such employee.

Sec. 8. K.S.A. 74-4925b is hereby amended to read as follows: 74-4925b. The state board of regents may establish a procedure whereby any person employed by employee of the state board of regents or any educational institution under its control who is not described in clause (a) of subsection (1) of K.S.A. 74-4925 and including unclassified employees who are members of the cooperative extension service and appointed pursuant to the federal Smith-Lever Act, as amended, may, subject to rules and regulations of said board of regents, request said board of regents in writing for a reduction in compensation and the contribution thereof for tax sheltered annuities as permitted under the provisions of the internal revenue code of 1954, as amended. For the purposes of the Kansas public employees' retirement system, "compensation" as used in this act shall have the meaning ascribed thereto in K.S.A. 74-4932 and for cooperative extension service employees compensation shall mean the total of all salaries and wages paid by the federal, state and county for personal services performed as a member of the cooperative extension service the board's management, but not including student employees, subject to the rules and regulations of the state board of regents, may voluntarily request that the state board of regents reduce the employee's compensation and contribute such to an investment provider who has been approved by the state board of regents to offer contracts in accordance with section 403(b) of the federal internal revenue code. The state board of regents may exclude from eligibility under this section any persons employed in such temporary or part-time positions as the board designates.

Sec. 9. K.S.A. 74-4925e is hereby amended to read as follows: 74-4925e. On and after the effective date of this act, the percentage amount to be contributed or provided by the state board of regents



under subsection (1)(c) or subsection (4) of K.S.A. 74-4925, and amendments thereto, shall be computed on the basis of 8.5% for payroll periods chargeable to the fiscal year ending June 30, 1994.

Sec. 10. K.S.A. 2004 Supp. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall ~~not be payable until the member has been prevented from carrying out each and every duty pertaining to the member's employment as a result of sickness or injury for a period of 180 days and the annual benefit shall not exceed an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on the date such disability commenced and shall be payable in equal monthly installments. In the event that a member's compensation is not fixed at an annual rate but on an hourly, weekly, biweekly, monthly or any other basis than annual, the board shall prescribe by rule and regulation a formula for establishing a reasonable rate of annual compensation to be used in determining the amount of the death or long-term disability benefit for such member in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to 66 $\frac{2}{3}$ % of the member's annual rate of compensation on the date such disability commenced.~~ Such plan shall provide that:

(A) For deaths occurring prior to January 1, 1987, the right to receive such death benefit shall cease upon the member's attainment of age 70 or date of retirement whichever first occurs. The right to receive such long-term disability benefit shall cease (i) for a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs, *and* (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, ~~upon the date that such member attains age 70; or upon the date of such member's retirement, whichever first occurs; (iii) for all disabilities incurred on or after January 1, 1987, for a member who becomes eligible for such benefit at or after attaining age 70, the date that such member has received such benefit for a period of 12 months or upon the date of such member's retirement, whichever first occurs; and (iv) for all disabilities incurred on or after January 1, 1987, for a member who becomes eligible for such benefit at or after attaining age 75, the date that such member has received such benefit for a period of six months or upon the date of such member's retirement, whichever first occurs.~~

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under subsection (3) of K.S.A. 74-4916 and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and exhaust all administrative remedies of the social security administration which include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount which a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. ~~Such long-term disability payments shall accrue from the later of the 181st day of total disability or the first day upon which the member ceases to draw compensation from the employer.~~ If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is

given. ~~In no case shall a member who is entitled to receive long-term disability benefits receive less than \$50 per month.~~ As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

~~(D) On and after April 30, 1981, the board may provide under the plan for the continuation of long-term disability benefit payments to any former member who forfeits the entitlement to continued service credit under the retirement system or continued assistance in the purchase of retirement annuities under K.S.A. 74-4925 and amendments thereto and to continued long-term disability benefit payments and continued death benefit coverage, by reason of the member's withdrawal of contributions from the retirement system or the repurchase of retirement annuities which were purchased with assistance received under K.S.A. 74-4925 and amendments thereto. Such long-term disability benefit payments may be continued until such individual dies, attains age 65 or is no longer disabled, whichever occurs first.~~

~~(E) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary of social and rehabilitation services and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.~~

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with subsection (17) of K.S.A. 74-4902 and amendments thereto except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's final average salary shall be adjusted upon retirement by 5% for each year of disability after July 1, 1993, but before July 1, 1998. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1993, such member's current annual rate shall be adjusted upon death by 5% for each year of disability after July 1, 1993, but

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before July 1, 1998. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions which are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Except as otherwise provided by this subsection, *for the period commencing July 1, 2005, and ending June 30, 2006*, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to ~~6%~~ .8% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. *For the period commencing*

*July 1, 2006, and all periods thereafter, each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund.* Notwithstanding the provisions of this subsection, no participating employer shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on April 1, 2000, and ending on December 31, 2001, for the period commencing July 1, 2002, and ending December 31, 2002, or for the period commencing April 1, 2003, and ending on June 30, 2004.

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of subsection (4) of K.S.A. 74-4920 and amendments thereto shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan *for employees and spouses and dependents of employees*. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees which should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection (6) and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection (6).

(7) Any employer other than the state of Kansas which is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 11. K.S.A. 74-4927a is hereby amended to read as follows: 74-4927a. (1) For the purposes of providing the "insured death benefit" and "insured disability benefit" as prescribed in K.S.A. 74-4927 and amendments thereto ~~to, the term "member" as used in K.S.A. 74-4927, and amendments thereto, shall include those members of the faculty and other persons employed by educational institutions under the management of the state board of regents as defined in paragraph (a) of subsection (1) of K.S.A. 74-4925 and amendments thereto, and who are receiving assistance in the purchase of retirement annuities as therein provided, the term "member" as used in K.S.A. 74-4927 and amendments thereto shall include the aforementioned members of the faculty and other persons employed by educational institutions under the management of the state board of regents and who are receiving such assistance, as defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto, who are eligible to participate in the retirement plan of the state board of regents as provided in K.S.A. 74-4925, and amendments thereto.~~

(2) Each educational institution under the management of the state board of regents shall pay to the Kansas public employees retirement system in such manner as the board of trustees shall prescribe each payroll period an amount sufficient to pay the employer's contribution to the group insurance reserve as provided in K.S.A. 74-4927 and amendments thereto. Subsection (2) of K.S.A. 74-4932 and amendments thereto shall also apply in determining such contributions and benefits.

(3) Each educational institution under the management of the state board of regents shall maintain a file of the beneficiaries named by the persons covered under the provisions of this act in the form and manner as prescribed by the board of trustees.

(4) ~~In the event that a member of the faculty or other person as defined in this section becomes eligible for the insured disability benefit, the state board of regents shall continue to provide the assistance including the payment of employers and employees contributions in the purchase of the retirement annuities as provided in K.S.A. 74-4925 and amendments thereto, until the date of retirement. Except as otherwise provided, in the event that a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto, who is an active participant in the retirement plan of the state board of regents becomes eligible for and begins to receive the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto, the state board of regents shall continue to make the contributions on behalf of such individual to the retirement plan of the state board of regents provided under subsection (1)(c) of K.S.A. 74-4925 and 74-4925e, and amendments thereto, and shall also contribute to the retirement plan an amount equal to the individual's contribution required under subsection (b)(1) of K.S.A. 74-4925, and amendments thereto. Commencing on and after July 1, 2005, such contributions shall cease at the earliest of: (A) The date that the individual is no longer entitled to an insured disability benefit under K.S.A. 74-4927, and amendments thereto; (B) the date that is five years after the date the individual becomes eli-~~

~~gible for and begins to receive the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto; or (C) the date required by section 403(b)(3) of the federal internal revenue code. For purposes of applying this subsection, compensation under subsections (1)(b) and (1)(c) of K.S.A. 74-4925, and amendments thereto, means the individual's compensation at the time the individual became disabled as defined under the insured disability program prescribed in K.S.A. 74-4927, and amendments thereto. Retirement plan contributions under this subsection shall be made in accordance with the requirements of section 403(b)(3) of the federal internal revenue code.~~

(5) ~~The state board of regents may establish a plan of long-term disability benefits to be paid to members of the faculty or other persons defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto, who become eligible for an insured disability benefit under K.S.A. 74-4927, and amendments thereto, and who satisfy the eligibility criteria set forth in this subsection. Long-term disability benefits paid under this subsection shall be in the same amount payable to the retirement plan of the state board of regents under subsection (4), but shall be paid on a taxable basis. Long-term disability benefits under this subsection shall be payable to a member of the faculty or other person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto, who:~~

(A) ~~Is an active participant in the retirement plan of the state board of regents on July 1, 2005; has less than 10 years of participation in the retirement plan of the state board of regents as of July 1, 2005; becomes entitled to the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto, before July 1, 2010; and has been a participant in the retirement plan of the state board of regents continuously from July 1, 2005, until the date entitled to the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto;~~

(B) ~~is an active participant in the retirement plan of the state board of regents on July 1, 2005; has 10 or more years of participation in the retirement plan of the state board of regents as of July 1, 2005; becomes entitled to the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto; and has been a participant in the retirement plan of the state board of regents continuously from July 1, 2005, until the date entitled to the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto;~~

(C) ~~is receiving the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto, on July 1, 2005; or~~

(D) ~~is disabled within the meaning of K.S.A. 74-4927, and amendments thereto, on July 1, 2005, but is still in the waiting period, if any, before the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto, begins.~~

~~In no event is an individual who is not an active participant in the retirement plan of the state board of regents on July 1, 2005, entitled to a long-term disability benefit under this subsection. An eligible individual shall begin receiving long-term disability benefits under this subsection at such time that the individual is no longer entitled to retirement plan contributions under subsection (4), and shall cease receiving long-term disability benefits under this subsection at such time that the individual is no longer entitled to the insured disability benefit prescribed in K.S.A. 74-4927, and amendments thereto. In no event shall long-term disability benefits payable under this subsection in any way reduce the insured disability benefits prescribed in K.S.A. 74-4927, and amendments thereto, nor shall long-term disability benefits payable under this subsection in any way delay the commencement of payment of the insured disability benefits prescribed in K.S.A. 74-4927, and amendments thereto.~~

(6) ~~The state board of regents shall have the authority to establish and adjust from time to time the procedures for financing and administering the long-term disability plan authorized by this section. The long-term disability benefit may be financed directly by the state board of regents or by one or more insurance companies authorized and licensed to transact group life and group accident and health~~

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insurance in Kansas. The state board of regents may also contract with one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in Kansas to underwrite or to administer, or both, the long-term disability benefit under this section. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the state board of regents, and such competitive bids shall be based on specifications prepared by the board.

(7) In the event the state board of regents purchases one or more policies of group insurance from such company or companies to finance the long-term disability plan, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company which issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the state board of regents.

~~(5)~~ (8) Any member of the faculty or other person as defined in this section K.S.A. 74-4927, and amendments thereto, may elect to continue to participate in the plan of death and long-term disability benefits insured disability plan and insured death plan as prescribed in K.S.A. 74-4927, and amendments thereto, while on leave of absence without compensation from an educational institution under the management of the state board of regents. Such member or person's election is valid only if such member or person files notice of such election with such member's or person's educational institution. Such member or person shall remit an amount equal to the required contributions to such educational institution. The educational institution shall report and remit such contributions in the same form and manner as other contributions are remitted by such educational institution. Such contributions shall not be more than such contributions would have been had such member or person not commenced such leave of absence. Upon returning to employment with an educational institution under the management of the state board of regents, for such member or person who elects to continue coverage as provided in this subsection, the provisions of subsections (1) through ~~(4)~~ (5) of this section shall apply.

Sec. 12. K.S.A. 74-4932 is hereby amended to read as follows: 74-4932. As used in this act, unless the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which shall be credited to such member's account, with interest allowed thereon, plus such member's contributions transferred from the school employees savings fund of the state school retirement system;

(2) "compensation" means the same as defined in subsection (9) of K.S.A. 74-4902 and amendments thereto;

(3) "school year" means the twelve-month period beginning September 1 and ending August 31;

(4) "employee" means any employee of a participating employer which is an eligible employer, as specified in K.S.A. 74-4931 and amendments thereto, whose employment is not seasonal or temporary and whose employment requires at least 630 hours of work per year or 3.5 hours of work per day for at least 180 days or any employee who is concurrently employed by two or more eligible employers, as specified in K.S.A. 74-4931 and amendments thereto, whose combined employment is not seasonal or temporary and whose combined employment requires at least 630 hours of work per year or 3.5 hours of work per day for at least 180 days. Employee shall not include:

(a) Any employee who is covered by or eligible for or who will become eligible for retirement benefits under any retirement plan or system provided by K.S.A. 74-4925 and amendments thereto;

(b) any employee who is a contributing member of the United States civil service retirement system;

(c) any employee or class of employees specifically exempt by law, except those persons who were formerly employees of one or more of the participating employers which are eligible employers as

specified in K.S.A. 74-4931 and amendments thereto, who are covered by and have contributions on deposit with the state school retirement system and who have not retired under that system on the day next preceding entry date;

(d) any employee who on entry date is covered by or eligible for or will become eligible for retirement benefits under a separate retirement system authorized or established under K.S.A. 72-1758 to 72-1769, inclusive, and amendments thereto, or K.S.A. 72-6780 and amendments thereto, except that this paragraph (d) shall not include any employee, who before September 1, 1974, elects to become a member of the Kansas public employees retirement system as provided in K.S.A. 74-4935a and amendments thereto; or

(e) on and after July 1, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto. However, no person shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925 and amendments thereto;

(5) "executive director" means the managing officer of the system as defined in subsection (16) of K.S.A. 74-4902 and amendments thereto;

(6) "military service" means the same as defined in subsection (22) of K.S.A. 74-4902 and amendments thereto, and includes such service when followed by return to employment with the same or another participating employer on or before the beginning of the next school year following discharge or separation from such military service;

(7) "normal retirement date" means the same as defined in subsection (23) of K.S.A. 74-4902 and amendments thereto, as modified by subsection (1) of K.S.A. 74-4937 and amendments thereto;

(8) "school employment" means the employment of a member when employed by an eligible employer as specified in any of subsection (1), (2) or (3) of K.S.A. 74-4931 and amendments thereto; and

(9) "USERRA" means the same as defined in subsection ~~(35)~~ (34) of K.S.A. 74-4902 and amendments thereto.

Sec. 13. K.S.A. 74-4952 is hereby amended to read as follows: 74-4952. As used in K.S.A. 74-4951 et seq. and amendments thereto:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which shall be credited to the member's account with interest allowed thereon after June 30, 1982.

(2) "Disability" means the total inability to perform permanently the duties of the position of a policeman or fireman.

(3) "Eligible employer" means any city, county, township or other political subdivision of the state employing one or more employees as firemen or policemen.

(4) "Employee" means any policeman or fireman employed by a participating employer whose employment for police or fireman purposes is not seasonal or temporary and requires at least 1,000 hours of work per year.

(5) "Entry date" means the date as of which an eligible employer joins the system; the first entry date pursuant to this act is January 1, 1967.

(6) "Final average salary" means:

(a) For members who are first hired as an employee, as defined in subsection (4), before July 1, 1993, the average highest annual compensation paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual compensation paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final average salary shall be computed by multiplying the member's highest monthly salary received in that year by 12;

(b) for members who are first hired as an employee, as defined in subsection (4), on and after July 1, 1993, the average highest annual salary, as defined in subsection ~~(34)~~ (33) of K.S.A. 74-4902 and amendments thereto, paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual salary, as defined in subsection (34) of K.S.A. 74-4902 and amendments thereto, paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final average salary shall be computed by multiplying the member's highest monthly salary received in that year by 12;

(c) for purposes of subparagraphs (a) and (b) of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system; and

(d) for any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or who will have contributions deducted from such member's compensation at an additional rate of contribution, in addition to the employee's rate of contribution as provided in K.S.A. 74-4919 and amendments thereto or will begin paying to the system a lump-sum amount for such member's purchase or repurchase, and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications.

(e) Notwithstanding any other provision of this section, for purposes of applying limits as provided by the federal internal revenue code, salary shall have the meaning as determined pursuant to K.S.A. 74-49,123 and amendments thereto.

(7) "Retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member as provided under the system or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification such surviving spouse may negotiate the warrant issued in the name of the retiree.

(8) "Normal retirement date" means the date on or after which a member may retire with eligibility for retirement benefits for age and service as provided in subsections (1) and (3) of K.S.A. 74-4957 and amendments thereto;

(9) "Retirement system" or "system" means the Kansas police and firemen's retirement system as established by this act and as it may be hereafter amended.

(10) "Service-connected" means with regard to a death or any physical or mental disability, any such death or disability resulting from external force, violence or disease occasioned by an act of duty as a policeman or fireman and, for any member after five years of credited service, there shall be a rebuttable presumption, that any death or disability resulting from a heart disease or disease of the lung or respiratory tract or cancer as provided in this subsection, except that in the event that the member ceases to be a contributing member by reason of a service-connected disability for a period of six months or more and then again becomes a contributing member, the provision relating to death or disability resulting from a heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection shall not apply until such member has again become a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart disease, disease of the lung or respiratory tract or cancer as provided in

this subsection was in fact occasioned by an act of duty as a policeman or fireman. If the retirement system receives evidence to the contrary of such presumption, the burden of proof shall be on the member or other party to present evidence that such death or disability was service-connected. The provisions of this section relating to the presumption that the death or disability resulting from cancer is service-connected shall only apply if the condition that caused the death or disability is a type of cancer which may, in general, result from exposure to heat, radiation or a known carcinogen.

(11) Prior to July 1, 1998, "fireman" or "firemen" means an employee assigned to the fire department and engaged in the fighting and extinguishment of fires and the protection of life and property therefrom or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. On and after July 1, 1998, "fireman" or "firemen" means an employee assigned to the fire department whose principal duties are engagement in the fighting and extinguishment of fires and the protection of life and property therefrom and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such.

(12) Prior to July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department and engaged in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. On and after July 1, 1998, "police," "policeman" or "policemen" means an employee assigned to the police department whose principal duties are engagement in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies; who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and is certified pursuant to the provisions of K.S.A. 74-5607a and amendments thereto; and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such. Notwithstanding any other provisions of this subsection, "police," "policeman" or "policemen" shall include a city or county correctional officer who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such commencing on July 1, 1998, and ending on June 30, 1999.

(13) Except as otherwise defined in this act, words and phrases used in K.S.A. 74-4951 et seq. and amendments thereto, shall have the same meanings ascribed to them as are defined in K.S.A. 74-4902 and amendments thereto.

Sec. 14. K.S.A. 76-746 is hereby amended to read as follows: 76-746. (a) The state board of regents is hereby authorized to develop and implement a phased-retirement program for unclassified employees of state educational institutions under the ~~control and supervision~~ *management* of the board in accordance with the provisions of this act. Subject to rules and regulations adopted by the state board of regents, each state educational institution may enter into phased-retirement agreements under this section with unclassified employees of the institution. Such agreements shall provide that the unclassified employee shall accept an appointment in a position which is less than the employee's current appointment but which is at least ¼ time, and the state educational institution shall pay on behalf of the employee: (1) The amount specified by the Kansas state employees health care commission under K.S.A. 75-6508, and amendments thereto, as if the employee is serving under a full-time appointment as an employee of the state educational institution and participating in the state health care benefits program to provide for

(continued)

such participation of the employee; (2) the amount of contributions required to assist in the purchase of retirement annuities under subsection (1)(c) of K.S.A. 74-4925, and amendments thereto, as if the employee is serving under a full-time appointment as an employee of the state educational institution; and (3) the amount required as contributions under subsection (2) of K.S.A. 74-4927a, and amendments thereto, as if the employee is serving under a full-time appointment as an employee of the state educational institution at the full-time equivalent salary. For each unclassified employee who has entered into a phased-retirement agreement with a state educational institution under this section, the full-time equivalent salary, calculated as if the employee is serving under a full-time appointment as an employee of the state educational institution, compensation that the employee would have been entitled to receive based upon the employee's percentage appointment immediately preceding entry into phased-retirement shall be utilized for the purposes of calculating all employer provided benefits, including but not limited to, compensation for accumulated sick leave, the insured death benefit and the insured disability benefit under K.S.A. 74-4927, and amendments thereto, and calculating final average salary as defined in subsection (17) of K.S.A. 74-4902, and amendments thereto, and retirement plan contributions under subsection (1)(c) of K.S.A. 74-4925, and amendments thereto.

(b) For the purposes of this section, the term "unclassified employee" means an employee of a state educational institution, except health care employees, who is within the unclassified service under the Kansas civil service act, who is a participant in the retirement plan of the state board of regents, as provided in subsection (1)(a) of K.S.A. 74-4925, and amendments thereto, and who meets minimum age and service requirements as determined and prescribed by the board of regents.

New Sec. 15. (a) (1) Notwithstanding the provisions of K.S.A. 74-4971 and amendments thereto, on or after the effective date of this act, the office of state fire marshal shall affiliate with the Kansas police and firemen's retirement system established under the provisions of K.S.A. 74-4951 et seq., and amendments thereto, pursuant to the provisions of this act for membership in the system of members of the staff of the office of state fire marshal who have successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and are certified pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto, and who are employed in a position which such certification is required. For purposes of such affiliation for membership in the system of such members, the office of state fire marshal shall be considered a new participating employer. The office of state fire marshal shall make application for affiliation with such system in the manner provided by K.S.A. 74-4954 and amendments thereto, to be effective on July 1, next following application. The office of state fire marshal shall affiliate for membership in the system of such members for participating service credit.

(2) The office of state fire marshal shall appropriate and pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system and the employer contributions of the office of state fire marshal shall be as provided in subsection (1) of K.S.A. 74-4967, and amendments thereto.

(b) (1) Each such member of the staff employed by the office of state fire marshal on the date of affiliation, may become a member of the Kansas police and firemen's retirement system on the first day of the payroll period of such member, coinciding with or following the entry date of the office of state fire marshal as provided in this section, only by filing with the board of trustees of the system, on or before the entry date of the office of state fire marshal as provided in this section, a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become or not to become a member, shall be irrevocable.

(2) Each such member of the staff of the office of state fire marshal who is on an authorized leave of absence or is in the military

service on the entry date of the office of state fire marshal as provided in this section may become a member of the Kansas police and firemen's retirement system on the first day of the first payroll period of such member, coinciding with such member's return to active employment and payroll of the office of state fire marshal, only by filing with the board of trustees of the system within 10 days after such return to active employment a written election to become a member of the system. Failure to file such written election shall be presumed to be an election not to become a member of the system. Such election, whether to become a member or not to become a member, shall be irrevocable.

(c) Each such member who is employed as a member of the staff of the office of state fire marshal on or after the entry date of the office of state fire marshal into the Kansas police and firemen's retirement system as provided in this section shall become a member of the Kansas police and firemen's retirement system on the first day of such employment.

(d) If the office of state fire marshal affiliates as provided in this act and each such member of the staff of the office of state fire marshal who elects to become a member as provided in this act, the office of state fire marshal and each such member shall be subject to the provisions of K.S.A. 74-4951 et seq., and amendments thereto, as applicable.

(e) The division of the budget and the governor shall include in the budget and in the budget request for appropriations for personnel services the amount required to satisfy the employer's obligation under this act as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriations.

(f) The determination of retirement, death or disability benefits shall be computed upon the basis of "credited service" as used in K.S.A. 74-4951 et seq., and amendments thereto, but shall include only participating service with the person's participating employer, commencing on and after the effective date of affiliation by the participating employer with the Kansas police and firemen's retirement system.

New Sec. 16. (a) Subject to the limitations of this section, during the fiscal year ending June 30, 2006, and each fiscal year thereafter, if it appears that the resources are insufficient to meet in full the estimated expenditures as they become due to meet the financial obligations imposed by law on the death and disability program as a result of a cash flow shortfall, the pooled money investment board is authorized and directed to loan to the Kansas public employees retirement system sufficient funds to maintain the cash flow of the death and disability program upon approval of such loan by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto. No loan shall be made unless the terms thereof have been approved by the director of the budget. A copy of the terms of the loan shall be submitted to the director of the legislative research department. The pooled money investment board is authorized and directed to use any moneys in the operating accounts, investment accounts or other investments of the state of Kansas to provide the funds for such loan. Each such loan shall bear interest at a rate equal to the net earnings rate of the pooled money investment portfolio at the time of the making of such loan. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

(b) Upon certification by the pooled money investment board by the executive director of the Kansas public employees retirement system of the amount of each loan authorized pursuant to subsection (a), the pooled money investment board shall transfer each such amount certified by the executive director of the Kansas public employees retirement system from the state bank account or accounts prescribed in subsection (a) to the group insurance reserve fund.

(c) The principal and interest of each loan authorized pursuant to subsection (a) shall be repaid in payments payable on or before

June 30, 2007, or June 30 of each subsequent year where a loan to the system has occurred pursuant to this section.

Sec. 17. K.S.A. 10-813a, 74-4914, 74-4925b, 74-4925e, 74-4927a, 74-4932, 74-4952 and 76-746 and K.S.A. 2004 Supp. 20-

2610a, 74-4902, 74-4918, 74-4920, 74-4925 and 74-4927 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the Kansas register.

**INDEX TO ADMINISTRATIVE REGULATIONS**

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2003 Volumes and 2004 Supplement of the *Kansas Administrative Regulations*.

**AGENCY 1: DEPARTMENT OF ADMINISTRATION**

Reg. No.	Action	Register
1-9-4	Amended	V. 23, p. 718
1-45-18	Amended (T)	V. 23, p. 424
1-45-18	Amended	V. 23, p. 1044
1-45-19	Amended (T)	V. 23, p. 424
1-45-19	Amended	V. 23, p. 1044
1-45-20	Amended (T)	V. 23, p. 424
1-45-20	Amended	V. 23, p. 1045
1-45-23	Amended (T)	V. 23, p. 425
1-45-23	Amended	V. 23, p. 1045
1-45-24	Amended (T)	V. 23, p. 425
1-45-24	Amended	V. 23, p. 1045

**AGENCY 4: DEPARTMENT OF AGRICULTURE**

Reg. No.	Action	Register
4-8-14a	Amended (T)	V. 23, p. 900
4-8-14a	Amended	V. 23, p. 1102
4-8-27 through		
4-8-37	Amended	V. 23, p. 1102, 1103
4-8-39	Amended	V. 23, p. 1103
4-8-40	Amended (T)	V. 23, p. 901
4-8-40	Amended	V. 23, p. 1103
4-8-42	Amended	V. 23, p. 1103
4-11-2	Amended	V. 23, p. 895
4-11-3	Amended	V. 23, p. 895
4-11-6	Revoked	V. 23, p. 896
4-11-7	Revoked	V. 23, p. 896
4-11-8	Amended	V. 23, p. 896
4-11-9	Amended	V. 23, p. 896
4-11-14	Amended	V. 23, p. 896
4-15-7	Amended	V. 24, p. 550
4-15-8	Amended	V. 24, p. 550
4-25-16	Amended (T)	V. 22, p. 2176
4-25-16	Amended	V. 23, p. 95
4-28-1	New (T)	V. 23, p. 1597
4-28-2	New (T)	V. 23, p. 1597
4-28-1 through		
4-28-7	New	V. 24, p. 145, 146

**AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES**

Reg. No.	Action	Register
5-3-4e	Amended (T)	V. 23, p. 1284
5-3-4e	Amended	V. 23, p. 1580
5-3-5o	New	V. 23, p. 1130
5-3-29	New (T)	V. 23, p. 1284
5-3-29	New	V. 23, p. 1580
5-17-1 through		
5-17-18	New	V. 23, p. 1131-1137
5-22-1	Amended	V. 23, p. 1534
5-22-4b	New	V. 23, p. 1536
5-22-4c	New	V. 23, p. 1536

5-22-4d	New	V. 23, p. 1537
5-22-6	Amended	V. 23, p. 1634
5-22-7	Amended	V. 23, p. 1537
5-22-8	Amended	V. 23, p. 1538
5-22-9	Amended	V. 23, p. 1538
5-22-10	New	V. 23, p. 1635
5-22-13	New	V. 23, p. 1636
5-22-14	New	V. 23, p. 1636
5-22-15	New	V. 23, p. 1637
5-22-17	New	V. 23, p. 1539
5-23-1	Amended	V. 23, p. 181
5-23-3	Amended	V. 23, p. 181
5-23-3a	Amended	V. 23, p. 182
5-24-1	Amended	V. 23, p. 65
5-24-2	Amended	V. 23, p. 65
5-24-3	Amended	V. 23, p. 66
5-24-4	Amended	V. 23, p. 68
5-24-6	Amended	V. 23, p. 68
5-24-8	Amended	V. 23, p. 68
5-24-11	New	V. 23, p. 69

**AGENCY 7: SECRETARY OF STATE**

Reg. No.	Action	Register
7-18-1	Revoked	V. 23, p. 1366
7-18-2	Revoked	V. 23, p. 1366
7-18-3	Revoked	V. 23, p. 1366
7-27-1	Amended	V. 23, p. 1366
7-29-2	Amended	V. 23, p. 1366
7-34-2	New (T)	V. 24, p. 42
7-34-2	New	V. 24, p. 332

**AGENCY 9: ANIMAL HEALTH DEPARTMENT**

Reg. No.	Action	Register
9-2-32	Amended (T)	V. 24, p. 272
9-11-10	Amended (T)	V. 24, p. 272

**AGENCY 10: KANSAS BUREAU OF INVESTIGATION**

Reg. No.	Action	Register
10-22-1	New	V. 24, p. 245

**AGENCY 11: STATE CONSERVATION COMMISSION**

Reg. No.	Action	Register
11-11-1 through		
11-11-7	New	V. 24, p. 242-244

**AGENCY 14: DEPARTMENT OF REVENUE**

Reg. No.	Action	Register
14-14-12	Revoked	V. 24, p. 798

**AGENCY 16: ATTORNEY GENERAL**

Reg. No.	Action	Register
16-1-7	Amended	V. 24, p. 95
16-4-2	New	V. 24, p. 95
16-4-3	New	V. 24, p. 95
16-4-4	New	V. 24, p. 96
16-6-1	Amended	V. 24, p. 96

**AGENCY 22: STATE FIRE MARSHAL**

Reg. No.	Action	Register
22-1-2	Amended	V. 23, p. 978
22-1-7	New	V. 23, p. 978

**AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT**

Reg. No.	Action	Register
28-1-2	Amended	V. 23, p. 202
28-1-4	Amended	V. 23, p. 203
28-1-20	Amended	V. 23, p. 360
28-4-576	Amended (T)	V. 23, p. 389
28-4-576	Amended	V. 23, p. 1255
28-4-577	Amended (T)	V. 23, p. 390

28-4-577	Amended	V. 23, p. 1257
28-4-578	Amended (T)	V. 23, p. 391
28-4-578	Amended	V. 23, p. 1257
28-4-583	Amended (T)	V. 23, p. 392
28-4-583	Amended	V. 23, p. 1258
28-4-585	Amended (T)	V. 23, p. 392
28-4-585	Amended	V. 23, p. 1259
28-4-587	Amended (T)	V. 23, p. 394
28-4-587	Amended	V. 23, p. 1260
28-4-590	Amended (T)	V. 23, p. 396
28-4-590	Amended	V. 23, p. 1262
28-4-591	Amended (T)	V. 23, p. 397
28-4-591	Amended	V. 23, p. 1264
28-4-600 through		
28-4-613	New	V. 23, p. 957-962
28-4-700 through		
28-4-705	New (T)	V. 23, p. 398-400
28-4-700 through		
28-4-705	New	V. 23, p. 1265, 1266
28-15-11	Revoked	V. 23, p. 1367
28-15-13	Revoked	V. 23, p. 1367
28-15-14	Revoked	V. 23, p. 1367
28-15-15a	Revoked	V. 23, p. 1367
28-15-16	Amended	V. 23, p. 1367
28-15-18	Amended	V. 23, p. 1367
28-15-20	Revoked	V. 23, p. 1368
28-15-21	Revoked	V. 23, p. 1368
28-15-22	Revoked	V. 23, p. 1368
28-15-35	Amended	V. 23, p. 305
28-15-36	Amended	V. 23, p. 309
28-15a-2	New	V. 23, p. 1368
28-15a-3	New	V. 23, p. 1368
28-15a-4	New	V. 23, p. 1368
28-15a-6	New	V. 23, p. 1369
28-15a-11	New	V. 23, p. 1369
28-15a-21	New	V. 23, p. 1369
28-15a-23 through		
28-15a-29	New	V. 23, p. 1369, 1370
28-15a-31	New	V. 23, p. 1370
28-15a-33	New	V. 23, p. 1370
28-15a-41	New	V. 23, p. 1370
28-15a-42	New	V. 23, p. 1370
28-15a-43	New	V. 23, p. 1370
28-15a-60 through		
28-15a-66	New	V. 23, p. 1370
28-15a-70	New	V. 23, p. 1370
28-15a-72 through		
28-15a-76	New	V. 23, p. 1370, 1371
28-15a-80 through		
28-15a-91	New	V. 23, p. 1371
28-15a-100	New	V. 23, p. 1371
28-15a-101	New	V. 23, p. 1371
28-15a-110	New	V. 23, p. 1371
28-15a-111	New	V. 23, p. 1371
28-15a-130 through		
28-15a-135	New	V. 23, p. 1371, 1372
28-15a-151 through		
28-15a-155	New	V. 23, p. 1372
28-15a-170	New	V. 23, p. 1372
28-15a-172 through		
28-15a-175	New	V. 23, p. 1372, 1373
28-15a-201 through		
28-15a-210	New	V. 23, p. 1373

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**AGENCY 88: BOARD OF REGENTS**

Reg. No.	Action	Register
88-16-5b	New	V. 23, p. 1595
88-23-2	Amended	V. 23, p. 276
88-23-2a	New	V. 23, p. 278
88-23-3	Revoked	V. 23, p. 279
88-23-3a	New	V. 23, p. 279
88-26-1 through 88-26-16	New	V. 23, p. 1487-1491
88-27-1	New	V. 23, p. 1491
88-27-2	New	V. 23, p. 1492

**AGENCY 91: DEPARTMENT OF EDUCATION**

Reg. No.	Action	Register
91-1-68a through 91-1-68e	Revoked	V. 23, p. 1111
91-1-230	New	V. 23, p. 1106
91-1-231	New	V. 23, p. 1107
91-1-232	New	V. 23, p. 1108
91-1-235	New	V. 23, p. 1108
91-1-236	New	V. 23, p. 1109
91-8-2	Revoked	V. 23, p. 1493
91-8-15	Revoked	V. 23, p. 1493
91-8-16	Revoked	V. 23, p. 1493
91-8-17	Revoked	V. 23, p. 1493
91-8-19	Revoked	V. 23, p. 1493
91-8-26	Revoked	V. 23, p. 1493
91-8-30 through 91-8-33	Revoked	V. 23, p. 1493
91-9-11	Revoked	V. 23, p. 1493
91-15-1	Amended	V. 24, p. 272
91-18-24	Revoked	V. 23, p. 280
91-18-27	Revoked	V. 23, p. 280
91-18-29	Revoked	V. 23, p. 280
91-18-34	Revoked	V. 23, p. 280
91-18-40	Revoked	V. 23, p. 280
91-25-1a	Revoked	V. 23, p. 1493
91-25-1c	Revoked	V. 23, p. 1493
91-25-2	Revoked	V. 23, p. 1493
91-25-3a	Revoked	V. 23, p. 1493
91-25-4a	Revoked	V. 23, p. 1493
91-25-17	Revoked	V. 23, p. 1493
91-25-18	Revoked	V. 23, p. 1493
91-25-19	Revoked	V. 23, p. 1493
91-35-1 through 91-35-4	Revoked	V. 24, p. 272

**AGENCY 92: DEPARTMENT OF REVENUE**

Reg. No.	Action	Register
92-12-113	New	V. 24, p. 423
92-19-49a	Revoked	V. 24, p. 798
92-19-49b	New	V. 24, p. 798
92-19-49c	New	V. 24, p. 799
92-19-49d	New	V. 24, p. 801
92-19-81	Amended	V. 24, p. 802
92-26-4	Amended	V. 23, p. 1533
92-51-34a	Amended	V. 24, p. 423

**AGENCY 94: BOARD OF TAX APPEALS**

Reg. No.	Action	Register
94-2-21	Amended (T)	V. 23, p. 896
94-2-21	Amended	V. 23, p. 1375

**AGENCY 100: BOARD OF HEALING ARTS**

Reg. No.	Action	Register
100-11-1	Amended (T)	V. 23, p. 580
100-11-1	Amended	V. 23, p. 1042
100-28a-1	Amended	V. 23, p. 1558
100-29-7	Amended	V. 23, p. 1558
100-49-4	Amended	V. 23, p. 1148
100-54-4	Amended (T)	V. 23, p. 383
100-54-4	Amended	V. 23, p. 1042
100-55-4	Amended (T)	V. 23, p. 383
100-55-4	Amended	V. 23, p. 1042
100-69-5	Amended	V. 23, p. 1558
100-72-8	New	V. 24, p. 14
100-72-9	New	V. 23, p. 1558

**AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD**

Reg. No.	Action	Register
102-1-13	Amended	V. 24, p. 424
102-1-18	Amended	V. 24, p. 424
102-2-3	Amended	V. 24, p. 424
102-2-8	Amended	V. 24, p. 424
102-2-12	Amended	V. 24, p. 426
102-2-14	Amended	V. 24, p. 427
102-3-2	Amended	V. 24, p. 428
102-3-3a	Amended (T)	V. 24, p. 330
102-3-7a	Amended	V. 23, p. 1139
102-3-15	Amended	V. 24, p. 428
102-4-2	Amended	V. 24, p. 428
102-4-3a	Amended	V. 23, p. 1141
102-4-4a	Amended	V. 23, p. 1143
102-4-7a	Amended	V. 23, p. 1144
102-4-15	Amended	V. 24, p. 428
102-5-2	Amended	V. 24, p. 428
102-5-4a	Amended	V. 23, p. 1145
102-5-7a	Amended	V. 23, p. 1147
102-5-14	Amended	V. 24, p. 429

**AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION**

Reg. No.	Action	Register
108-1-1	Amended	V. 23, p. 1189
108-1-4	Amended	V. 23, p. 823

**AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES**

Reg. No.	Action	Register
109-3-2	New	V. 23, p. 202

**AGENCY 110: DEPARTMENT OF COMMERCE**

Reg. No.	Action	Register
110-8-1 through 110-8-6	Revoked	V. 23, p. 1595
110-8-8 through 110-8-11	Revoked	V. 23, p. 1595
110-10-1	New	V. 23, p. 180
110-11-1	New	V. 24, p. 429
110-11-2	New	V. 24, p. 429
110-11-3	New	V. 24, p. 429
110-12-1 through 110-12-6	New	V. 24, p. 371

**AGENCY 111: KANSAS LOTTERY**

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 Kansas Register. A list of regulations filed by the Kansas Lottery from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 Kansas Register. The following regulations were filed after January 1, 2004:

Reg. No.	Action	Register
111-2-151 through 111-2-156	New	V. 23, p. 95, 96
111-2-154	Amended	V. 23, p. 261
111-2-155	Amended	V. 23, p. 262
111-2-156	Amended	V. 23, p. 262
111-2-157	New	V. 23, p. 262
111-2-158	New	V. 23, p. 459
111-2-159	New	V. 23, p. 901
111-2-160	New	V. 23, p. 1655
111-2-161	New	V. 23, p. 1655
111-2-162	New	V. 23, p. 1655
111-2-163	New	V. 24, p. 15
111-2-164	New	V. 24, p. 199
111-2-165	New	V. 24, p. 296
111-2-166	New	V. 24, p. 296
111-2-167 through 111-2-172	New	V. 24, p. 430, 431
111-2-173	New	V. 24, p. 460
111-2-174	New	V. 24, p. 460
111-3-13	Amended	V. 23, p. 1433
111-3-22	Amended	V. 23, p. 97

111-4-881	Amended	V. 23, p. 97
111-4-1448	Amended	V. 23, p. 98
111-4-2052	Amended	V. 23, p. 262
111-4-2055	Amended	V. 23, p. 263
111-4-2057	Amended	V. 23, p. 263
111-4-2074	Amended	V. 23, p. 98
111-4-2093	Amended	V. 23, p. 309
111-4-2094	New	V. 23, p. 100
111-4-2095 through 111-4-2115	New	V. 23, p. 264-275
111-4-2097	Amended	V. 23, p. 310
111-4-2098	Amended	V. 23, p. 310
111-4-2116 through 111-4-2125	New	V. 23, p. 311-318
111-4-2126 through 111-4-2146	New	V. 23, p. 459-471
111-4-2147 through 111-4-2160	New	V. 23, p. 901-909
111-4-2161 through 111-4-2173	New	V. 23, p. 1025-1033
111-4-2174	New	V. 23, p. 1074
111-4-2175	New	V. 23, p. 1075
111-4-2176	New	V. 23, p. 1076
111-4-2177 through 111-4-2180	New	V. 23, p. 1169-1171
111-4-2181 through 111-4-2185	New	V. 23, p. 1343-1346
111-4-2186 through 111-4-2195	New	V. 23, p. 1434-1438
111-4-2196 through 111-4-2205	New	V. 23, p. 1655-1659
111-4-2206 through 111-4-2213	New	V. 24, p. 15-22
111-4-2214 through 111-4-2227	New	V. 24, p. 199-207
111-4-2228 through 111-4-2235	New	V. 24, p. 297-300
111-4-2236 through 111-4-2241	New	V. 24, p. 432-435
111-4-2242	New	V. 24, p. 461
111-4-2243	New	V. 24, p. 462
111-5-96	Amended	V. 23, p. 101
111-5-111 through 111-5-115	New	V. 23, p. 245, 246
111-5-113	Amended	V. 23, p. 472
111-5-114	Amended	V. 23, p. 472
111-5-116 through 111-5-120	New	V. 24, p. 208, 209
111-6-1	Amended	V. 23, p. 1439
111-6-7	Amended	V. 23, p. 1440
111-6-26	New	V. 24, p. 23
111-7-188 through 111-7-192	New	V. 23, p. 319, 320
111-7-190	Amended	V. 23, p. 473
111-7-192	Amended	V. 23, p. 473
111-7-193 through 111-7-197	New	V. 24, p. 436, 437
111-9-122	New	V. 23, p. 910
111-9-123	New	V. 23, p. 910
111-9-124	New	V. 24, p. 437
111-9-125	New	V. 24, p. 438
111-9-126	New	V. 24, p. 438
111-11-1 through 111-11-11	New	V. 23, p. 911-914
111-11-1	Amended	V. 23, p. 1077

(continued)

111-12-1 New V. 23, p. 914

**AGENCY 112: RACING AND GAMING COMMISSION**

Reg. No.	Action	Register
112-10-3	Amended	V. 23, p. 93
112-10-5	Amended	V. 23, p. 1073
112-10-6	Amended	V. 23, p. 1073
112-10-6a	New	V. 23, p. 1074
112-10-13	New	V. 23, p. 495
112-13-2	Amended	V. 23, p. 94

**AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS**

Reg. No.	Action	Register
115-2-1	Amended	V. 24, p. 147
115-2-2	Amended	V. 23, p. 1581
115-2-3	Amended	V. 23, p. 1581
115-2-3a	New	V. 23, p. 1582
115-3-2	Amended	V. 24, p. 148
115-4-2	Amended	V. 24, p. 420
115-4-4	Amended	V. 24, p. 421
115-4-4a	New	V. 24, p. 422
115-4-6	Amended	V. 24, p. 148
115-4-6a	New	V. 24, p. 151
115-4-11	Amended	V. 24, p. 151
115-4-13	Amended	V. 24, p. 422
115-4-14	New	V. 23, p. 1583
115-5-1	Amended	V. 24, p. 152
115-5-4	New	V. 24, p. 752
115-7-1	Amended	V. 23, p. 1584
115-7-2	Amended	V. 24, p. 153
115-9-4	Amended	V. 24, p. 153
115-11-1	Amended	V. 24, p. 752
115-11-2	Amended	V. 24, p. 153
115-15-1	Amended	V. 24, p. 154
115-15-2	Amended	V. 24, p. 155
115-18-1	Amended	V. 24, p. 156
115-18-7	Amended	V. 24, p. 159
115-18-10	Amended	V. 24, p. 753
115-18-14	Amended	V. 23, p. 1585
115-20-1	Amended	V. 24, p. 159
115-20-2	Amended	V. 24, p. 160

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

Reg. No.	Action	Register
117-2-2	Amended	V. 23, p. 1407
117-3-2	Amended	V. 23, p. 1408

117-4-2	Amended	V. 23, p. 1408
117-6-3	Amended	V. 24, p. 77
117-7-1	Amended	V. 24, p. 78
117-8-1	Amended	V. 24, p. 78
117-9-1	Amended	V. 23, p. 150

**AGENCY 123: JUVENILE JUSTICE AUTHORITY**

Reg. No.	Action	Register
123-1-101	New	V. 24, p. 301
123-2-105	New	V. 24, p. 338
123-2-110	New	V. 24, p. 338
123-5-101	New	V. 24, p. 339
123-5-106	New	V. 24, p. 339
123-5-111	New	V. 24, p. 339
123-5-112	New	V. 24, p. 340
123-5-505	New	V. 24, p. 340
123-12-101		
	through	
123-12-107	New	V. 24, p. 301, 302
123-12-201		
	through	
123-12-210	New	V. 24, p. 302, 303
123-12-301		
	through	
123-12-315	New	V. 24, p. 303-305
123-12-317	New	V. 24, p. 305
123-12-318	New	V. 24, p. 305
123-12-319	New	V. 24, p. 306
123-12-321		
	through	
123-12-325	New	V. 24, p. 306
123-12-327	New	V. 24, p. 306
123-12-328	New	V. 24, p. 307
123-12-401	New	V. 24, p. 307
123-12-501		
	through	
123-12-505	New	V. 24, p. 307, 308
123-12-505b	New	V. 24, p. 308
123-12-506	New	V. 24, p. 308
123-12-601	New	V. 24, p. 308
123-12-602	New	V. 24, p. 310
123-12-702	New	V. 24, p. 310
123-12-801	New	V. 24, p. 310
123-12-901	New	V. 24, p. 310
123-12-902	New	V. 24, p. 310
123-12-1001	New	V. 24, p. 311
123-12-1002	New	V. 24, p. 311
123-12-1101	New	V. 24, p. 311

123-12-1201	New	V. 24, p. 312
123-12-1202	New	V. 24, p. 312
123-12-1301	New	V. 24, p. 312
123-12-1302	New	V. 24, p. 312
123-12-1303	New	V. 24, p. 312
123-12-1306	New	V. 24, p. 312
123-12-1308	New	V. 24, p. 313
123-13-101	New	V. 24, p. 342
123-13-101a	New	V. 24, p. 343
123-13-103	New	V. 24, p. 343
123-13-105	New	V. 24, p. 343
123-13-106	New	V. 24, p. 343
123-13-201	New	V. 24, p. 343
123-13-201b	New	V. 24, p. 344
123-13-202	New	V. 24, p. 345
123-13-203	New	V. 24, p. 345
123-13-306	New	V. 24, p. 345
123-13-307	New	V. 24, p. 346
123-13-401		
	through	
123-13-404	New	V. 24, p. 346-348
123-13-405a	New	V. 24, p. 349
123-13-406	New	V. 24, p. 349
123-13-408	New	V. 24, p. 350
123-13-409	New	V. 24, p. 350
123-13-501	New	V. 24, p. 350
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123-13-505		
	through	
123-13-509	New	V. 24, p. 350, 351
123-13-601	New	V. 24, p. 351
123-13-602	New	V. 24, p. 351
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123-15-101b	New	V. 24, p. 354
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123-15-105	New	V. 24, p. 355
123-15-105a	New	V. 24, p. 356
123-15-106	New	V. 24, p. 356
123-15-201	New	V. 24, p. 356
123-16-102	New	V. 24, p. 356
123-16-105	New	V. 24, p. 357









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