

STATE OF KANSAS

**2023 SESSION LAWS
OF KANSAS
VOL. 1**

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

PASSED DURING THE 2023 REGULAR
SESSION OF THE LEGISLATURE OF
THE STATE OF KANSAS

Date of Publication of this Volume
July 1, 2023

AUTHENTICATION

STATE OF KANSAS OFFICE OF SECRETARY OF STATE

I, Scott Schwab, Secretary of State of the state of Kansas, do hereby certify that the printed acts contained in this volume are true and correct copies of enrolled laws or resolutions which were passed during the 2023 regular session of the Legislature of the State of Kansas, begun on the 9th day of January, AD 2023, and concluded on the 28th day of April, AD 2023; and I further certify that all laws contained in this volume which took effect and went into force on and after publication in the *Kansas Register* were so published (on the date thereto annexed) as provided by law; and I further certify that all laws contained in this volume will take effect and be in force on and after the 1st day of July, AD 2023, except when otherwise provided.

Given under my hand and seal this 1st day of July, AD 2023.

(SEAL)

SCOTT SCHWAB
Secretary of State

EXPLANATORY NOTES

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

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

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

Approval and publication dates are included.

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 The bill index, subject index, and list of statutes repealed or amended will assist you in locating bills of interest.

NOTICE

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

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Secretary of State
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Topeka, KS 66612-1594
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OFFICIAL DIRECTORY

ELECTIVE STATE OFFICERS

<i>Office</i>	<i>Name</i>	<i>Residence</i>	<i>Party</i>
Governor	Laura Kelly	Topeka	Dem.
Lieutenant Governor	David Toland	Jola	Dem.
Secretary of State	Scott Schwab	Olathe	Rep.
State Treasurer	Lynn W. Rogers	Wichita	Dem.
Attorney General	Kris Kobach	Lecompton	Rep.
Commissioner of Insurance	Vicki Schmidt	Topeka	Rep.

STATE BOARD OF EDUCATION

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

UNITED STATES SENATORS

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

UNITED STATES REPRESENTATIVES

(Terms expire January 3, 2025)

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

LEGISLATIVE DIRECTORY

STATE SENATE

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
Alley, Larry , 517 Quail Nest Rd., Winfield 67156	Rep.	32
Baumgardner, Molly , 29467 Masters Ct., Louisburg 66053	Rep.	37
Billinger, Rick , PO Box 594, Goodland 67735	Rep.	40
Blasi, Chase , 1746 N. Blackstone Ct., Wichita 67235	Rep.	27
Bowers, Elaine , 1326 N. 150th Rd., Concordia 66901	Rep.	36
Claeys, J.R. , 2157 Redhawk Ln., Salina 67401	Rep.	24
Corson, Ethan , PO Box 8296, Prairie Village 66208	Dem.	7
Dietrich, Brenda , 6110 SW 38th Terr., Topeka 66610	Rep.	20
Doll, John , 2927 Cliff Pl., Garden City 67846	Rep.	39
Erickson, Renee , 26 N. Cypress Dr., Wichita 67206	Rep.	30
Fagg, Michael , 1810 Terrace Dr., El Dorado 67042	Rep.	14
Faust Goudeau, Oletha , PO Box 20335, Wichita 67208	Dem.	29
Francisco, Marci , 1101 Ohio, Lawrence 66044	Dem.	2
Gossage, Beverly , 9325 Evening Star Terr., Eudora 66025	Rep.	9
Haley, David , 936 Cleveland Ave., Kansas City 66101	Dem.	4
Holland, Tom , 961 E. 1600 Rd., Baldwin City 66006	Dem.	3
Holscher, Cindy , Overland Park	Dem.	8
Kerschen, Dan , 645 S. 263 West, Garden Plain 67050	Rep.	26
Kloos, Rick , Berryton	Rep.	19
Longbine, Jeff , 2801 Lakeridge Rd., Emporia 66801	Rep.	17
Masterson, Ty , PO Box 424, Andover 67002	Rep.	16
McGinn, Carolyn , PO Box A, Sedgwick 67135	Rep.	31
Olson, Robert , 15944 S. Clairborne St., Olathe 66062	Rep.	23
O'Shea, Kristen , 4630 NW Timber Ct., Topeka 66618	Rep.	18
Peck, Virgil , PO Box 299, Havana 67374	Rep.	15
Petersen, Mike , 2608 Southeast Dr., Wichita 67216	Rep.	28
Pettey, Pat , 5316 Lakewood St., Kansas City 66106	Dem.	6
Pittman, Jeff , 1108 S. Broadway, Leavenworth 66048	Dem.	5
Pyle, Dennis , 2979 Kingfisher Rd., Hiawatha 66434	Ind.	1
Reddi, Usha , 1801 Westbank Way, Manhattan 66503	Dem.	22
Ryckman, Ronald , PO Box 192, Meade 67864	Rep.	38
Shallenburger, Tim , 1538 Garfield, Baxter Springs 66713	Rep.	13
Steffen, Mark , 3500 N. Mayfield Rd., Hutchinson 67502	Rep.	34
Straub, Alicia , 401 S. Kennedy, Ellinwood 67526	Rep.	33
Sykes, Dinah , 10227 Theden Cir., Lenexa 66220	Dem.	21
Thompson, Mike , Shawnee	Rep.	10
Tyson, Caryn , PO Box 191, Parker 66072	Rep.	12
Ware, Mary , 1444 N. Perry, Wichita 67203	Dem.	25
Warren, Kellie , 14505 Falmouth St., Leawood 66224	Rep.	11
Wilborn, Rick , 1504 Heritage Pl., McPherson 67460	Rep.	35

HOUSE OF REPRESENTATIVES

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
Alcala, John , 520 NE Lake, Topeka 66616	Dem.	57
Amyx, Mike , 501 Lawrence Ave., Lawrence 66049.....	Dem.	45
Anderson, Avery , PO Box 305, Newton 67114.....	Rep.	72
Awerkamp, Francis , 807 W. Linn St., St. Marys 66536	Rep.	61
Ballard, Barbara , 1532 Alvarado Dr., Lawrence 66047.....	Dem.	44
Barth, Carrie , 135 E 1300 Rd., Baldwin City 66006	Rep.	5
Bergkamp, Brian , 2118 S. Wheatland St., Wichita 67235	Rep.	93
Bergquist, Emil , 6430 N. Hydraulic, Park City 67219.....	Rep.	91
Blew, Tory Marie , PO Box 103, Great Bend 67530	Rep.	112
Blex, Doug , 3131 CR 2600, Independence 67301.....	Rep.	12
Bloom, Lewis , 1901 Frontier Rd., Clay Center 67432	Rep.	64
Borjon, Jesse , 5326 SW 40th Terr., Topeka 66610.....	Rep.	52
Boyd, Brad , 13130 S. Raintree Dr., Olathe 66062	Dem.	49
Bryce, Ron , PO Box 486, Coffeyville 67337	Rep.	11
Buehler, David , 606 Canyon View Dr., Lansing 66043	Rep.	40
Butler, Nathan , 910 Countryside Ct., Junction City 66441	Rep.	68
Carlin, Sydney , 1650 Sunnyslope Ln., Manhattan 66502.....	Dem.	66
Carmichael, John , 1475 N. Lieunett, Wichita 67203	Dem.	92
Carpenter, Blake , 1300 E. Meadowlark Blvd., Apt 2203, Derby 67037	Rep.	81
Carpenter, Will , 6965 SW 18th, El Dorado 67042	Rep.	75
Carr, Ford , PO Box 20606, Wichita 67208.....	Dem.	84
Clayton, Stephanie Sawyer , 9825 Woodson Dr., Overland Park 66207	Dem.	19
Clifford, Bill , 102 Drury Ln., Garden City 67846.....	Rep.	122
Collins, Kenneth , 102 E. 1st St., Mulberry 66756.....	Rep.	2
Concannon, Susan , 921 N. Mill St., Beloit 67420	Rep.	107
Corbet, Ken , 10351 SW 61st, Topeka 66610.....	Rep.	54
Croft, Chris , 8909 W. 148th Terr., Overland Park 66221.....	Rep.	8
Curtis, Pam , 322 N. 16th St., Kansas City 66102.....	Dem.	32
Delperdang, Leo , 2103 N. Pintail, Wichita 67235.....	Rep.	94
Dodson, Michael , 4109 Wellington Dr., Manhattan 66503.....	Rep.	67
Donohoe, Owen , 6265 Arapahoe St., Shawnee 66226.....	Rep.	39
Droge, Duane , 1215 US-54 Hwy., Eureka 67045	Rep.	13
Ellis, Ronald , 9199 K-4 Hwy., Meriden 66512	Rep.	47
Eplee, John , 163 Deer Run, Atchison 66002	Rep.	63
Essex, Robyn , 1137 E. Frontier Dr., Olathe 66062.....	Rep.	78
Estes, Susan , PO Box 781244, Wichita 67278	Rep.	87
Fairchild, Brett , 150 NW 40th St., St. John 67576	Rep.	113
Featherston, Linda , PO Box 13447, Overland Park 66282	Dem.	16
Francis, Shannon , 1501 Tucker Ct., Liberal 67901	Rep.	125
Garber, Randy , 2424 Timberlane Terr., Sabetha 66534	Rep.	62
Gardner, Fred , 22498 NW 1840 Rd., Garnett 66032	Rep.	9
Goddard, Dan , 3420 Mosher Rd., Parsons 67357.....	Rep.	7
Goetz, Jason , 2425 Bell Ave., Dodge City 67801.....	Rep.	119
Haskins, Kirk , 1035 Ashworth Rd., Topeka 66604	Dem.	53
Haswood, Christina , PO Box 3083, Lawrence 66046.....	Dem.	10
Hawkins, Daniel R. , 9406 Harvest Ln., Wichita 67212.....	Rep.	100
Helgerson, Henry , 12 E. Peach Tree Ln., Eastborough 67207.....	Dem.	83

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Highberger, Dennis “Boog”, 1024 New York, Lawrence 66044.....	Dem.	46
Hill, Scott, 907 N. Buckeye, Abilene 67410.....	Rep.	70
Hoffman, Kyle, 1318 Avenue T, Coldwater 67029.....	Rep.	116
Hoheisel, Nick, 3731 W. Angel St., Wichita 67217.....	Rep.	97
Hougland, Allison, PO Box 292, Olathe 66051.....	Dem.	15
Houser, Michael, 6891 SW 10th, Columbus 66725.....	Rep.	1
Howe, Steven, Salina.....	Rep.	71
Howell, Leah, 125 E. Buckthorn, Derby 67037.....	Rep.	82
Howerton, Cyndi, 1400 E. 59th Ct. S, Wichita 67216.....	Rep.	98
Hoye, Jo Ella, 8517 Alden Ln., Lenexa 66215.....	Dem.	17
Humphries, Susan, 8 Sagebrush St., Wichita 67230.....	Rep.	99
Jacobs, Trevor, 2148 Ironstone Dr, Fort Scott 66701.....	Rep.	4
Johnson, Timothy, 14135 Mitchell Court, # A, Basehor 66007.....	Rep.	38
Kessler, Tom, 4560 S. Washington, Wichita 67216.....	Rep.	96
Landwehr, Brenda, 2611 N. Bayside Ct., Wichita 67205.....	Rep.	105
Lewis, Bob, PO Box 8, Garden City 67846.....	Rep.	123
Martinez, Angela, PO Box 2454, Wichita 67201.....	Dem.	103
Mason, Les, 108 Arcadian Ct., McPherson 67460.....	Rep.	73
Maughan, Carl, PO Box 75, Colwich 67030.....	Rep.	90
Melton, Lynn, 4028 Independence Blvd., Kansas City 66109.....	Dem.	36
Meyer, Heather, PO Box 13346, Overland Park 66282.....	Dem.	29
Miller, Dennis, 1205 N. Cooper St., Olathe 66061.....	Dem.	14
Miller, Silas, 203 S. Lorraine, Wichita 67211.....	Dem.	86
Miller, Vic, 1174 SW Fillmore, Topeka 66604.....	Dem.	58
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Neighbor, Cindy, 10405 W. 52nd Terr., Shawnee 66203.....	Dem.	18
Ohaebosim, KC, PO Box 21271, Wichita 67208.....	Dem.	89
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Ruiz, Susan, 7306 Bond St., Shawnee 66203.....	Dem.	23
Sanders, Clarke, 2096 Leland Way, Salina 67401.....	Rep.	69

<i>Name and residence</i>	<i>Party</i>	<i>Dist.</i>
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Schlingensiepen, Tobias , PO Box 3714, Topeka 66604	Dem.	55
Schmoe, Rebecca , 1526 S. Cedar St., Ottawa 66067	Rep.	59
Schreiber, Mark , 1722 Yucca Ln., Emporia 66801	Rep.	60
Seiwert, Joe , 1111 E. Boundary Rd., Pretty Prairie 67570	Rep.	101
Smith, Adam , 1970 Road 3, Weskan 67762	Rep.	120
Smith, Chuck , 2112 W. 4th, Pittsburg 66762	Rep.	3
Smith, Eric , 627 Kennebec St., Burlington 66839	Rep.	76
Stogsdill, Jerry , 4414 Tomahawk Rd., Prairie Village 66208	Dem.	21
Sutton, Bill , 215 W. Park St., Gardner 66030	Rep.	43
Tarwater, Sean , 16006 Meadow Ln., Stilwell 66085	Rep.	27
Thomas, Adam , 16272 S. Sunset St., Olathe 66062	Rep.	26
Thompson, Mike , 642 N. Nettleton Ave., Bonner Springs 66012	Rep.	33
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Underhill, Jeff , PO Box 864, Junction City 66441	Rep.	65
Vaughn, Lindsay , 7921 Carter St., Apt. 3106, Overland Park 66204	Dem.	22
Waggoner, Paul , 600 E. 73rd, Hutchinson 67502	Rep.	104
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Waymaster, Troy , 3528 192nd St., Bunker Hill 67626	Rep.	109
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White, Gary , PO Box 674, Ashland 67831	Rep.	115
Williams, Kristey , 506 Stone Court Lake Ct., Augusta 67010	Rep.	77
Williams, Laura , 14525 W. 93rd, Lenexa 66215	Rep.	30
Winn, Valdenia , PO Box 12327, Kansas City 66112	Dem.	34
Woodard, Brandon , PO Box 19271, Lenexa 66285	Dem.	108
Xu, Rui , 4724 Belinder Ave., Westwood 66205	Dem.	25
Younger, David , 320 W. Kansas, Ulysses 67880	Rep.	124

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Dinah SykesMinority Leader

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Blake Carpenter.....Speaker Pro Tem
Chris Croft.....Majority Leader
Vic MillerMinority Leader

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2023 SESSION LAWS OF KANSAS

CHAPTER 1

SENATE BILL No. 11

TO Administration, department of..... SEC. 1

AN ACT concerning the state capitol; reauthorizing the permanent placement of a life-size version of the “Ad Astra” sculpture on state capitol grounds; transferring approval authority to the capitol preservation committee; making and concerning appropriations for the fiscal year ending June 30, 2023, for the department of administration; amending K.S.A. 75-2256 and repealing the existing section.

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

New Section 1.

DEPARTMENT OF ADMINISTRATION

(a) There is appropriated for the above agency from the following special revenue fund or funds for the fiscal year ending June 30, 2023, all moneys now or hereafter lawfully credited to and available in such fund or funds, except that expenditures other than refunds authorized by law shall not exceed the following:

Ad astra sculpture fund..... No limit

Sec. 2. K.S.A. 75-2256 is hereby amended to read as follows: 75-2256.

(a) There may be placed on the grounds of the state capitol a life-size version of the sculpture “Ad Astra,” ~~which that has been selected placed atop the state capitol~~ pursuant to K.S.A. 75-2249, and amendments thereto, ~~for placement atop the state capitol. If placed on the state capitol grounds, the sculpture shall be located at a site to be selected by the capitol area plaza authority. The sculpture and, its pedestal placement and the remainder of the “Ad Astra” plaza, including the installation of bronze plaques and donor bricks, shall conform to design and architectural drawings reviewed by the division of facilities management of the department of administration and be approved by the capitol area plaza authority capitol preservation committee pursuant to K.S.A. 75-2269, and amendments thereto.~~

(b) The secretary of administration is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of financing the creation, construction or maintenance of the

sculpture and ~~its pedestal~~ the “Ad Astra” plaza and to expend such moneys for the purpose for which received. The secretary of administration shall remit all moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ad astra sculpture fund. No public moneys shall be expended for the purpose of financing the creation, construction or maintenance of the sculpture or ~~its pedestal~~ the “Ad Astra” plaza.

(c) There is hereby established in the state treasury the ad astra sculpture fund. Expenditures from the fund may be made for the purposes of creating, constructing and maintaining the sculpture and ~~its pedestal~~ the “Ad Astra” plaza and for such purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration or the secretary’s designee.

(d) On or before the 10th day of the month following the month in which moneys are first credited to the ad astra sculpture fund interest earnings based on: (1) The average daily balance of moneys in the ad astra sculpture fund for the preceding month; and (2) the net earnings rate for the pooled money investment portfolio for the preceding month.

Sec. 3. K.S.A. 75-2256 is hereby repealed.

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

Approved March 13, 2023.

Published in the *Kansas Register* March 16, 2023.

CHAPTER 2

SENATE BILL No. 39

AN ACT concerning the state capitol; relating to permanent displays and murals; directing the capitol preservation committee to develop and approve plans for a mural honoring the 1st Kansas (Colored) Voluntary Infantry regiment; creating the 1st Kansas (Colored) Voluntary Infantry regiment mural fund; amending K.S.A. 75-2264 and repealing the existing section.

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

Section 1. K.S.A. 75-2264 is hereby amended to read as follows: 75-2264. (a) ~~The Kansas state historical society and the department of administration~~ *capitol preservation committee shall develop and approve plans to place a mural in the capitol honoring the 1st Kansas (Colored) Voluntary Infantry regiment pursuant to K.S.A. 75-2269, and amendments thereto.*

(b) *The secretary of administration is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of financing the creation and installation of the 1st Kansas (Colored) Voluntary Infantry regiment mural and to expend such moneys for the purposes for which received. The secretary of administration shall remit all moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the 1st Kansas (Colored) Voluntary Infantry regiment mural fund. Except for the costs associated with the preparation and submission of the plans under subsection (a), no public funds shall be expended for the purpose of financing the creation or installation of the mural developed under this section.*

(c) *There is hereby established in the state treasury the 1st Kansas (Colored) Voluntary Infantry regiment mural fund. Expenditures from the fund may be made for the purposes of creating and installing the 1st Kansas (Colored) Voluntary Infantry regiment mural and for such other purposes as may be specified with regard to any grant, gift, contribution or bequest. All such expenditures shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of administration or the secretary's designee.*

Sec. 2. K.S.A. 75-2264 is hereby repealed.

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

Approved March 13, 2023.

CHAPTER 3

SENATE BILL No. 24

AN ACT concerning insurance; relating to coverage for autism spectrum disorder; changing the required number of employees contained in the definitions of “large employer” and “small employer”; amending K.S.A. 40-2,194 and repealing the existing section.

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

Section 1. K.S.A. 40-2,194 is hereby amended to read as follows: 40-2,194. (a) (1) (A) Any large group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed on or after January 1, 2015, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 12 years.

(B) Any grandfathered individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization ~~which~~ *that* provides coverage for accident and health services and ~~which~~ *that* is delivered, issued for delivery, amended or renewed on or after January 1, 2016, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 12 years.

(2) Such coverage shall be provided in a manner determined in consultation with the autism services provider and the patient. Services provided by autism services providers under this section shall include applied behavior analysis when required by a licensed physician, licensed psychologist or licensed specialist clinical social worker but otherwise shall be limited to the care, services and related equipment prescribed or ordered by a licensed physician, licensed psychologist or licensed specialist clinical social worker.

(3) Coverage provided under this section for applied behavior analysis shall be subject to a limitation of:

(A) 1,300 hours per calendar year for four years beginning on the later of the date of diagnosis or January 1, 2015, for any covered individual diagnosed with autism spectrum disorder between birth and five years of age; and

(B) except as provided in subparagraph (A), 520 hours per calendar year for any covered individual less than 12 years of age.

Upon prior approval by the health benefit plan, such maximum benefit limit may be exceeded if the provision of applied behavior analysis

services beyond the maximum limit is medically necessary for such individual. Any payment made by an insurer on behalf of a covered individual for any care, treatment, intervention, service or item, the provision of which was for the treatment of a health condition unrelated to such covered individual's autism spectrum disorder, shall not be applied toward any maximum benefit established under this paragraph. Except for the coverage for applied behavior analysis, no coverage required under this section shall be subject to the age and hour limitations described in this paragraph.

(4) On or after January 1, 2015, through June 30, 2016, reimbursement shall be allowed only for services provided by a provider licensed, trained and qualified to provide such services or by an autism specialist or an intensive individual service provider as such terms are defined by the Kansas department for aging and disability services Kansas autism waiver. On or after July 1, 2016, reimbursement shall be allowed only for services provided by an autism service provider licensed or exempt from licensure under the applied behavior analysis licensure act, except that reimbursement shall be allowed for services provided by an autism specialist, an intensive individual service provider or any other individual qualified to provide services under the home and community based services autism waiver administered by the Kansas department for aging and disability services.

(5) Any insurer or other entity ~~which~~ *that* administers claims for services provided for the treatment of autism spectrum disorder under this section shall have the right and obligation to deny any claim for services based upon medical necessity or a determination that the covered individual has reached the maximum medical improvement for the covered individual's autism spectrum disorder.

(6) Except for inpatient services, if an insured is receiving treatment for autism spectrum disorder, such insurer shall have the right to review the treatment plan not more than once in a period of six consecutive months, unless the insurer and the insured's treating physician or psychologist agree that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall apply only to a particular insured being treated for autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorder by a physician or psychologist. The cost of obtaining any review or treatment plan shall be borne by the insurer.

(7) No insurer can terminate coverage, or refuse to deliver, execute, issue, amend, adjust or renew coverage to an individual solely because the individual is diagnosed with or has received treatment for autism spectrum disorder.

(b)—~~For the purposes of~~ *As used in this section:*

(1) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(2) “Autism spectrum disorder” means a neurobiological disorder, an illness of the nervous system, ~~which~~ *that* includes:

(A) “Autistic disorder,” which is:

(i) Six or more items from (a), (b) and (c) of this subparagraph, with at least two items from (a) of this subparagraph, and one item each from (b) and (c) of this subparagraph:

(a) Qualitative impairment in social interaction, as manifested by at least two of the following:

(1) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction;

(2) failure to develop peer relationships appropriate to developmental level;

(3) a lack of spontaneous seeking to share enjoyment, interests or achievements with other people; or

(4) lack of social or emotional reciprocity;

(b) qualitative impairments in communication as manifested by at least one of the following:

(1) Delay in, or total lack of, the development of spoken language;

(2) in individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

(3) stereotyped and repetitive use of language or idiosyncratic language; or

(4) lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level;

(c) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least one of the following:

(1) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

(2) apparently inflexible adherence to specific, nonfunctional routines or rituals;

(3) stereotyped and repetitive motor mannerisms; or

(4) persistent preoccupation with parts of objects;

(ii) delays or abnormal functioning in at least one of the following areas, with onset prior to age three years, including social interaction, language as used in social communication or symbolic or imaginative play; and

(iii) the disturbance is not better accounted for by Rett’s disorder or childhood disintegrative disorder;

- (B) “Asperger’s disorder,” which is:
- (i) A qualitative impairment in social interaction, as manifested by at least two of the following:
 - (a) Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures and gestures to regulate social interaction;
 - (b) failure to develop peer relationships appropriate to developmental level;
 - (c) lack of spontaneous seeking to share enjoyment, interests or achievements with other people; or
 - (d) lack of social or emotional reciprocity;
 - (ii) restricted repetitive and stereotyped patterns of behavior, interests and activities, as manifested by at least one of the following:
 - (a) Encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;
 - (b) apparently inflexible adherence to specific, nonfunctional routines or rituals;
 - (c) stereotyped and repetitive motor mannerisms; or
 - (d) persistent preoccupation with parts of objects;
 - (iii) the disturbance causes clinically significant impairment in social, occupational or other important areas of functioning;
 - (iv) there is no clinically significant general delay in language;
 - (v) there is no clinically significant delay in cognitive development or in the development of age-appropriate self-help skills, adaptive behavior (other than in social interaction), and curiosity about the environment in childhood; and
 - (vi) criteria are not met for another specific pervasive developmental disorder or schizophrenia;
- (C) “pervasive developmental disorder not otherwise specified,” is a severe and pervasive impairment in the development of reciprocal social interaction associated with impairment in either verbal or nonverbal communication skills or with the presence of stereotyped behavior, interests and activities, but the criteria are not met for a specific pervasive developmental disorder, schizophrenia, schizotypal personality disorder, or avoidant personality disorder;
- (D) “Rett’s disorder,” includes:
- (i) All of the following:
 - (a) Apparently normal prenatal and perinatal development;
 - (b) apparently normal psychomotor development through the first five months after birth; and
 - (c) normal head circumference at birth;
 - (ii) onset of all of the following after the period of normal development:
 - (a) Deceleration of head growth between ages five and 48 months;

(b) loss of previously acquired purposeful hand skills between ages five and 30 months with the subsequent development of stereotyped hand movements;

(c) loss of social engagement early in the course of development;

(d) appearance of poorly coordinated gait or trunk movements; and

(e) severely impaired expressive and receptive language development with severe psychomotor retardation;

(E) “childhood disintegrative disorder,” is:

(i) Apparently normal development for at least the first two years after birth as manifested by the presence of age-appropriate verbal and non-verbal communication, social relationships, play and adaptive behavior;

(ii) clinically significant loss of previously acquired skills in at least two of the following areas: Expressive or receptive language, social skills or adaptive behavior, bowel or bladder control or play and motor skills;

(iii) abnormalities of functioning in at least two of the following areas: Qualitative impairment in social interaction; qualitative impairments in communication; restricted, repetitive and stereotyped patterns of behavior, interests and activities, including motor stereotypies and mannerisms; and

(iv) the disturbance is not better accounted for by another specific pervasive developmental disorder or by schizophrenia.

(3) “Diagnosis of autism spectrum disorder” means any medically necessary assessment, evaluation or test performed by a licensed physician, licensed psychologist or licensed specialist clinical social worker to determine whether an individual has autism spectrum disorder.

(4) “Grandfathered health benefit plan” ~~shall have the meaning ascribed to such term~~ means the same as defined in 42 U.S.C. § 18011. The term “grandfathered health benefit plan” includes both small employer group health benefit plans that are grandfathered and individual health benefit plans that are grandfathered.

(5) “Health benefit plan” ~~shall have the meaning ascribed to such term~~ means the same as defined in K.S.A. 40-4602, and amendments thereto.

(6) “Large employer” means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least ~~101~~ 51 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(7) “Small employer” means, in connection with a group health benefit plan with respect to a calendar year and a plan year, an employer who employed an average of at least ~~one~~ two but not more than ~~100~~ 50 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.

(c) If an individual has been diagnosed as having autism spectrum disorder meeting the diagnostic criteria described in the edition of the

diagnostic and statistical manual of mental disorders available at the time of diagnosis, then that individual shall not be required to undergo any additional or repeated evaluation based upon the adoption of a subsequent edition of the diagnostic and statistical manual of mental disorders adopted by rules and regulations of the behavioral sciences regulatory board in order to remain eligible for coverage under this section.

(d) Except as otherwise provided in subsection (a), no individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization ~~which that~~ provides coverage for accident and health services and ~~which provides~~ coverage with respect to autism spectrum disorder shall *impose on the coverage required by this section*:

(1) ~~Impose on the coverage required by this section~~ Any dollar limits, deductibles or coinsurance provisions that are less favorable to an insured than the dollar limits, deductibles or coinsurance provisions that apply to physical illness generally under the accident and sickness insurance policy; or

(2) ~~impose on the coverage required by this section~~ any limit upon the number of visits that a covered individual may make for treatment of autism spectrum disorder.

(e) The provisions of this section shall not apply to any policy or certificate ~~which that~~ provides coverage for any specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity, long-term care insurance as defined by K.S.A. 40-2227, and amendments thereto, vision care or any other limited supplemental benefit nor to any medicare supplement policy of insurance as defined by the commissioner of insurance by rules and regulations, any coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical-payment insurance or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

(f) This section shall not be construed as limiting benefits that are otherwise available to an individual under any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services.

(g) The provisions of K.S.A. 40-2249a, and amendments thereto, shall not apply to the provisions of this section.

(h) The commissioner of the department of insurance shall grant a small employer with a group health benefit plan a waiver from the provisions of this section, if the small employer demonstrates to the com-

missioner by actual claims experience over any consecutive ~~twelve-month~~ *12-month* period that compliance with this section has increased the cost of the health insurance policy by an amount of ~~two and a half percent~~ 2.5% or greater over the period of a calendar year in premium costs to the small employer.

(i) Nothing contained in this section shall require coverage for or payment of full or partial day care or habilitation services, community support services, services at intermediate care facilities, school-based rehabilitative services or overnight, boarding and extended stay services at facilities for autism patients. Only services actually rendered on an hourly basis or fractional portion thereof by certified applied behavior analysis (ABA) providers as herein defined shall be required to be covered under this section. Nothing in this section shall require coverage or payment hereunder for services that are otherwise provided, authorized or required to be provided by public or private schools receiving any state or federal funding for such services.

Sec. 2. K.S.A. 40-2,194 is hereby repealed.

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

Approved March 31, 2023.

CHAPTER 4

HOUSE BILL No. 2262

AN ACT concerning public health; relating to embalmer educational requirements; allowing an individual to complete six months of an embalmer apprenticeship prior to enrolling in a school of mortuary science; amending K.S.A. 65-1701a and 65-1703 and repealing the existing sections.

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

Section 1. K.S.A. 65-1701a is hereby amended to read as follows: 65-1701a. (a) Except as otherwise provided by K.S.A. 65-1701b, and amendments thereto, each applicant for a license to practice embalming in this state, in order to be eligible for examination, shall be required to show to the satisfaction of the state board of mortuary arts that:

(1) Prior to July 1, 1991, the applicant: (A) Successfully completed courses in a community college, college or university accumulating at least 60 semester hours; and (B) ~~attended~~ *graduated from* a school of mortuary science approved by the board ~~which that~~ *offers a twelve-month 12-month* course in mortuary science ~~and prior to the effective date of this act graduated therefrom accumulating during this training~~ *with* at least 30 semester hours in mortuary science; or

(2) on and after July 1, 1991, the applicant has graduated from a community college, college or university with at least an AA degree in mortuary science, ~~which degree program is~~ approved by the board.

(b) Except as otherwise provided in K.S.A. 65-1701b, and amendments thereto, each applicant for a license to practice embalming in this state, in order to be eligible for *a full* apprenticeship, *as provided in subsection (c)*, shall be required to submit to an examination approved by the ~~state board of mortuary arts~~. *An applicant who is completing a split apprenticeship, as provided in subsection (c), in order to be eligible for the second six-month period of the apprenticeship, shall be required to submit to an examination approved by the board.* Each applicant shall be required to register with the secretary of the board in the manner and at the time required by the board before submitting to examination. The examination fee and registration fee shall be in the amounts fixed by the board in accordance with K.S.A. 65-1727, and amendments thereto. The board may require that fees paid for an examination be paid by the person taking the examination directly to the examination service providing the examination approved by the board.

(c) Except as otherwise provided by K.S.A. 65-1701b, and amendments thereto, each applicant for a license to practice embalming in this state, in order to be eligible for licensure, shall successfully pass a written examination established by rules and regulations of the board and shall ~~successfully serve~~ *complete* a full-time *12-month* apprenticeship ~~of one~~

year under the supervision of a Kansas licensed embalmer or an embalmer approved by the board. The board by rules and regulations shall establish the score for the successful completion of the written examination.

(1) *Such 12-month apprenticeship may be completed as either a:*

(A) *Full apprenticeship, with all 12 months being served after graduation from a school of mortuary science; or*

(B) *split apprenticeship, wherein the 12-month apprenticeship is split into two continuous six-month periods. The first six-month period shall be completed within the 12 months prior to enrollment in a school of mortuary science, and the remaining six-month period shall be completed after graduation from such school of mortuary science.*

(d) (1) The board shall adopt rules and regulations establishing the criteria which a school of mortuary science or college or university offering at least an AA degree in mortuary science shall satisfy in order to obtain board approval under subsection (a).

(2) The board may send a questionnaire developed by the board to any school of mortuary science or college or university offering at least an AA degree in mortuary science for which the board does not have sufficient information to determine whether the school, college or university meets the criteria for approval established by rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the school, college or university to be considered for approval.

(3) The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about such schools, colleges or universities. In entering such contracts the authority to approve schools, colleges or universities shall remain solely with the board.

Sec. 2. K.S.A. 65-1703 is hereby amended to read as follows: 65-1703. (a) (1) It is unlawful for any person who is not licensed as an embalmer to advertise, practice, offer to practice, or hold oneself out as practicing the science of embalming, either by arterial or cavity treatment, or otherwise, in this state, or to embalm any dead human body for shipment or transportation by common or private carrier.

(2) It is unlawful for any common carrier to receive for transportation or to transport any dead human body unless the body has been prepared by a licensed embalmer, in accordance with this act and the rules and regulations of the board.

(3) No one except a licensed embalmer, an apprentice embalmer or a student embalmer under the provisions of this act and rules and regulations of the board shall be permitted to do any of the actual embalming of a dead human body, and no licensed embalmer shall permit anyone who is not a licensed embalmer, an apprentice embalmer or a student embalmer assigned to such embalmer, to perform in such embalmer's place of

business, or elsewhere, or under such embalmer's supervision, any of the actual embalming of a dead human body, or perform any act necessary to embalm and preserve a dead human body.

(b) Student embalmers shall preregister or register with the board and be under the direct personal supervision of a licensed Kansas embalmer at all times during the embalming process. Apprentice embalmers shall be under the personal supervision of a licensed embalmer *except under a split apprenticeship pursuant to K.S.A. 65-1701a, and amendments thereto, during which the apprentice embalmer shall be under the direct personal supervision of a licensed embalmer for the first six-month period.*

(c) *As used in this section:*

(1) ~~The term "Actual embalming" as used in this section shall not be construed to~~ *does not* include dressing the hair, bathing, moving or dressing the body, or cosmetic work.

(2) ~~The term "Direct personal supervision"~~ means that a licensed Kansas embalmer takes full responsibility for actions of the student embalmer and shall be physically present at all times.

(3) ~~The term "Personal supervision"~~ means that a licensed embalmer takes full responsibility for the actions of the apprentice embalmer; but does not require any physical presence.

Sec. 3. K.S.A. 65-1701a and 65-1703 are hereby repealed.

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

Approved March 31, 2023.

CHAPTER 5

HOUSE BILL No. 2197

AN ACT concerning financial institutions; relating to the first-time home buyer savings account act; authorizing the state treasurer to market the first-time home buyer savings account program to account holders and financial institutions; providing a procedure for the distribution of the account balance upon the death of an account holder; changing the term “transfer on death” to “payable on death” regarding beneficiaries; resolving a conflict when beneficiaries differ on a financial institution’s account records and on first-time home buyer savings account tax forms required by the secretary of revenue; amending K.S.A. 2022 Supp. 58-4903, 58-4904, 58-4906 and 79-32,117 and repealing the existing sections.

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

New Section 1. (a) The state treasurer may have non-exclusive authority to market the first-time home buyer savings account program to account holders and financial institutions throughout the state and may report on the marketing initiatives in the state treasurer’s office annual report.

(b) This section shall be a part of and supplemental to the first-time home buyer savings account act.

Sec. 2. K.S.A. 2022 Supp. 58-4903 is hereby amended to read as follows: 58-4903. (a) On and after July 1, 2022, any individual may open an account with a financial institution and designate the account, in its entirety, as a first-time home buyer savings account to be used to pay or reimburse a designated beneficiary’s eligible expenses for the purchase or construction of a primary residence in this state. An individual may be the account holder of multiple accounts and an individual may jointly own the account with another individual if such individuals file a joint income tax return. An account holder shall comply with the requirements of this act to be eligible for the modifications set forth in K.S.A. 79-32,117, and amendments thereto.

(b)(1) An account holder shall designate, no later than April 15 of the year following the taxable year during which the account is established, a first-time home buyer as the designated beneficiary of the account. Nothing in this section shall prohibit an account holder from designating such account holder as the designated beneficiary of an account. An account holder may change the designated beneficiary at any time, but no account shall have more than one designated beneficiary at any time. An individual may be designated as the designated beneficiary of more than one account if such accounts are held by separate account holders. No account holder shall be authorized to designate the same designated beneficiary on multiple accounts held by such account owner.

(2) *The naming of a designated beneficiary shall not create a survivorship interest in the account for such designated beneficiary. In the event of*

the death of an account holder, the balance of such account shall be paid to the payable on death beneficiary in accordance with K.S.A. 9-1215, and amendments thereto, or, in the absence of a named payable on death beneficiary, in accordance with the provisions of the Kansas probate code.

(c) (1) The following limits apply to an account established pursuant to this act:

(A) The maximum contribution to an account in any tax year shall be \$3,000 for an individual and \$6,000 for a married couple filing a joint return;

(B) the maximum amount of all contributions into an account in all tax years shall be \$24,000 for an individual and \$48,000 for a married couple filing a joint return; and

(C) the maximum total amount in an account shall be \$50,000.

(2) If a limit in paragraph (1) is exceeded, then thereafter all interest or other income earned on the investment of moneys in an account shall be subject to the tax imposed by the Kansas income tax act.

(3) Moneys may remain in an account for an unlimited duration without the interest or income being subject to recapture or penalty.

(d) The account holder shall not use moneys in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution. The account holder shall be responsible for maintaining documentation for the account and for eligible expenses related to the designated beneficiary's purchase or construction of a primary residence.

Sec. 3. K.S.A. 2022 Supp. 58-4904 is hereby amended to read as follows: 58-4904. (a) (1) The moneys in a first-time home buyer savings account may be:

(A) Used for eligible expenses related to a designated beneficiary's purchase or construction of a primary residence located in this state;

(B) used for eligible expenses related to a designated beneficiary's purchase or construction of a primary residence located outside of this state if such designated beneficiary is active-duty military and was stationed in Kansas for any time after the creation of the account;

(C) used for eligible expenses that would have qualified pursuant to paragraph (1)(A) or (1)(B) but the contract for purchase or construction did not close;

(D) transferred to another newly created account; and

(E) used to pay service fees assessed by the financial institution.

(2) This subsection shall apply even if a designated beneficiary is a joint owner of a primary residence with another person who is not a designated beneficiary of an account. Moneys in an account shall not be used to purchase a manufactured or mobile home that is not taxed as real property.

(b) Moneys withdrawn from an account shall be subject to recapture by the secretary in the tax year in which they were withdrawn if:

(1) At the time of the withdrawal, it has been less than a year since the first deposit in the account; or

(2) the moneys are used for any purpose other than the expenses or transactions authorized pursuant to subsection (a)(1).

(c) Moneys that are subject to recapture shall be an amount equal to the moneys withdrawn from an account and shall be added to the Kansas adjusted gross income pursuant to K.S.A. 79-32,117(b)(xxvii), and amendments thereto, of the account holder or, if the account holder is no longer living, the designated beneficiary. If any moneys are subject to recapture, the account holder shall pay a penalty in the following amounts: (1) If the withdrawal of moneys occurred 10 or less years after the first deposit in the account, 5% of the amount subject to recapture; and (2) if the withdrawal of moneys occurred more than 10 years after the first deposit in the account, 10% of the amount subject to recapture.

(d) The penalties provided in subsection (c) shall not apply if: (1) The withdrawn moneys are used for eligible expenses related to a designated beneficiary's purchase or construction of a primary residence outside of this state; or (2) the withdrawn moneys are from an account in which the designated beneficiary died, and the account holder did not designate a new designated beneficiary during the same tax year.

(e) If the account holder dies or, if the account is jointly owned and the account owners die, and the account does not have a surviving ~~transfer~~ *payable* on death beneficiary, then all of the moneys in the account resulting from contributions or income earned from assets in the account pursuant to K.S.A. 79-32,117, and amendments thereto, shall be subject to recapture in the tax year of the death or deaths, but no penalty shall be assessed pursuant to subsection (c).

Sec. 4. K.S.A. 2022 Supp. 58-4906 is hereby amended to read as follows: 58-4906. (a) No financial institution shall be required to:

(1) Designate an account as a first-time home buyer savings account or designate the beneficiaries of an account in the financial institution's account contracts or systems or in any other way;

(2) track the use of moneys withdrawn from an account; or

(3) report any information to the department of revenue or any other governmental agency that is not otherwise required by law.

(b) No financial institution shall be responsible or liable for:

(1) Determining or ensuring that an account holder is eligible for a Kansas adjusted gross income modification pursuant to K.S.A. 79-32,117, and amendments thereto;

(2) determining or ensuring that moneys in the account are used for eligible expenses; or

(3) reporting or remitting taxes or penalties related to the use of account moneys.

(c) *A financial institution may rely on such financial institution's account records for determining a payable on death beneficiary for a first-time home buyer savings account. If the payable on death beneficiary in a financial institution's account records conflicts with the designated beneficiary on any form required by the secretary under the first-time home buyer savings account act, the payable on death beneficiary in such financial institution's account records shall control.*

Sec. 5. K.S.A. 2022 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction, except that the federal net operating loss deduction shall not be added to an individual's federal adjusted gross income for tax years beginning after December 31, 2016.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to

the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments thereto.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,204, and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203, and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to ~~K.S.A. 79-32,117(e)(xv), and amendments thereto,~~ subsection (c)(xv) or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to subsection (c)(xiii), or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's

federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return.

(xxi) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage

or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

(xxvi) For all taxable years beginning after December 31, 2016, the amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 72-4357, and amendments thereto, and is also claimed as an itemized deduction for federal income tax purposes.

(xxvii) For all taxable years commencing after December 31, 2020, the amount deducted by reason of a carryforward of disallowed business interest pursuant to section 163(j) of the federal internal revenue code of 1986, as in effect on January 1, 2018.

(xxviii) For all taxable years beginning after December 31, 2021, the amount of any contributions to, or earnings from, a first-time home buyer savings account if distributions from the account were not used to pay for expenses or transactions authorized pursuant to K.S.A. 2022 Supp. 58-4904, and amendments thereto, or were not held for the minimum length of time required pursuant to K.S.A. 2022 Supp. 58-4904, and amendments thereto. Contributions to, or earnings from, such account shall also include any amount resulting from the account holder not designating a surviving ~~transfer~~ *payable* on death beneficiary pursuant to K.S.A. 2022 Supp. 58-4904(e), and amendments thereto.

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly in-

cluded in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. §§ 228b(a) and 228c(a)(1) et seq.

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. § 280C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. § 280C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas venture capital, inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249, and amendments thereto.

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws

of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2017, the cumulative amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary that are contributed to: (1) A family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary; or (2) an achieving a better life experience (ABLE) account established under the Kansas ABLE savings program or a qualified ABLE program established and maintained by another state or agency or instrumentality thereof pursuant to section 529A of the internal revenue code of 1986, as amended, for the purpose of saving private funds to support an individual with a disability. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 75-643 and 75-652, and amendments thereto, and the provisions of such sections are hereby incorporated by reference for all purposes thereof.

(xvi) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are or were members of the armed forces of the United States, including service in the Kansas army and air national guard, as a recruitment, sign up or retention bonus received by such taxpayer as an incentive to join, enlist or remain in the armed services of the United States, including service in the Kansas army and air national guard, and amounts received for repayment of educational or student loans incurred by or obligated to such taxpayer and received by such taxpayer as a result of such taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

(xvii) For all taxable years beginning after December 31, 2004, amounts received by taxpayers who are eligible members of the Kansas army and air national guard as a reimbursement pursuant to K.S.A. 48-281, and amendments thereto, and amounts received for death benefits pursuant to K.S.A.

48-282, and amendments thereto, to the extent that such death benefits are included in federal adjusted gross income of the taxpayer.

(xviii) For the taxable year beginning after December 31, 2006, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$50,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly; and for all taxable years beginning after December 31, 2007, amounts received as benefits under the federal social security act which are included in federal adjusted gross income of a taxpayer with federal adjusted gross income of \$75,000 or less, whether such taxpayer's filing status is single, head of household, married filing separate or married filing jointly.

(xix) Amounts received by retired employees of Washburn university as retirement and pension benefits under the university's retirement plan.

(xx) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income, not including guaranteed payments as defined in section 707(c) of the federal internal revenue code and as reported to the taxpayer from federal schedule K-1, (form 1065-B), in box 9, code F or as reported to the taxpayer from federal schedule K-1, (form 1065) in box 4, from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

(xxi) For all taxable years beginning after December 31, 2013, amounts equal to the unreimbursed travel, lodging and medical expenditures directly incurred by a taxpayer while living, or a dependent of the taxpayer while living, for the donation of one or more human organs of the taxpayer, or a dependent of the taxpayer, to another person for human organ transplantation. The expenses may be claimed as a subtraction modification provided for in this section to the extent the expenses are not already subtracted from the taxpayer's federal adjusted gross income.

In no circumstances shall the subtraction modification provided for in this section for any individual, or a dependent, exceed \$5,000. As used in this section, “human organ” means all or part of a liver, pancreas, kidney, intestine, lung or bone marrow. The provisions of this paragraph shall take effect on the day the secretary of revenue certifies to the director of the budget that the cost for the department of revenue of modifications to the automated tax system for the purpose of implementing this paragraph will not exceed \$20,000.

(xxii) For taxable years beginning after December 31, 2012, and ending before January 1, 2017, the amount of net gain from the sale of: (1) Cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 24 months or more from the date of acquisition; and (2) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 12 months or more from the date of acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the provisions of subsection (b)(xix) attributable to the business in which the livestock sold had been used. As used in this paragraph, the term “livestock” shall not include poultry.

(xxiii) For all taxable years beginning after December 31, 2012, amounts received under either the Overland Park, Kansas police department retirement plan or the Overland Park, Kansas fire department retirement plan, both as established by the city of Overland Park, pursuant to the city’s home rule authority.

(xxiv) For taxable years beginning after December 31, 2013, and ending before January 1, 2017, the net gain from the sale from Christmas trees grown in Kansas and held by the taxpayer for six years or more.

(xxv) For all taxable years commencing after December 31, 2020, 100% of global intangible low-taxed income under section 951A of the federal internal revenue code of 1986, before any deductions allowed under section 250(a)(1)(B) of such code.

(xxvi) For all taxable years commencing after December 31, 2020, the amount disallowed as a deduction pursuant to section 163(j) of the federal internal revenue code of 1986, as in effect on January 1, 2018.

(xxvii) For taxable years commencing after December 31, 2020, the amount disallowed as a deduction pursuant to section 274 of the federal internal revenue code of 1986 for meal expenditures shall be allowed to the extent such expense was deductible for determining federal income tax and was allowed and in effect on December 31, 2017.

(xxviii) For all taxable years beginning after December 31, 2021: (1) The amount contributed to a first-time home buyer savings account pursuant to K.S.A. 2022 Supp. 58-4903, and amendments thereto, in an

amount not to exceed \$3,000 for an individual or \$6,000 for a married couple filing a joint return; or (2) amounts received as income earned from assets in a first-time home buyer savings account.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

~~(f) No taxpayer shall be assessed penalties and interest from the underpayment of taxes due to changes to this section that became law on July 1, 2017, so long as such underpayment is rectified on or before April 17, 2018.~~

Sec. 6. K.S.A. 2022 Supp. 58-4903, 58-4904, 58-4906 and 79-32,117 are hereby repealed.

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

Approved March 31, 2023.

CHAPTER 6

HOUSE BILL No. 2092

AN ACT concerning municipal universities; relating to the membership of the Washburn university board of regents; reapportioning the districts of certain members thereof; amending K.S.A. 13-13a04 and 13-13a05 and repealing the existing sections.

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

Section 1. K.S.A. 13-13a04 is hereby amended to read as follows: 13-13a04. (a) ~~Subject to the provisions of subsection (c),~~ (1) The board of regents of a municipal university ~~which~~ *that* has a taxing district that includes only territory lying within the corporate limits of the city where the university is located, shall consist of nine members as follows:

~~(1)(A)~~ Four members shall be appointed by the mayor with the approval of the governing body of the city in which the university is located and shall hold office as provided in K.S.A. 13-13a05, and amendments thereto. Members appointed under this provision shall be residents of the city in which the university is located, *and shall include* one from each of the three *member* districts ~~from which state senators are elected by residents of the city,~~ *established under subsection (c)* and one from the city at large.

~~(2)(B)~~ Three members shall be appointed by the governor and shall hold office as provided in K.S.A. 13-13a06, and amendments thereto. Members appointed under this provision shall be residents of the state.

~~(3)(C)~~ One member shall be the mayor of the city in which the university is located or another member of the governing body of the city who is selected by the mayor.

~~(4)(D)~~ One member shall be a member of the state board of regents selected by the state board at its regular meeting in September of each year; to serve as a member of the board of regents of the municipal university for the ensuing year.

(2) Resignations from the board of regents of the municipal university shall be made to the chairperson of the board. The chairperson shall report any vacancy occurring in the board to the authority ~~which~~ *that* appointed the member whose position is vacant. All vacancies shall be filled, ~~by the authority which that appointed the member whose position is vacant, by the appointment of a successor to~~ *and the appointed successor shall* hold office for the remainder of the unexpired term and until a successor is appointed and qualified.

(b) (1) The board of regents of a municipal university ~~which~~ *that* has a taxing district for retailers' sales tax purposes that includes the entire territory of the county where the university is located, shall consist of nine members as follows:

~~(1)(A)~~ Three members shall be appointed by the mayor with the approval of the governing body of the city in which the university is located and shall hold office as provided in K.S.A. 13-13a05, and amendments thereto. Members appointed under this provision shall be residents of the city in which the university is located; *and shall include* one from each of the three *member* districts ~~from which state senators are elected by residents of the city~~ *established under subsection (c)*.

~~(2)(B)~~ Three members shall be appointed by the governor and shall hold office as provided in K.S.A. 13-13a06, and amendments thereto. The members appointed under this provision shall be residents of the state.

~~(3)(C)~~ One member shall be appointed by the board of county commissioners of the county in which the university is located and shall hold office as provided in K.S.A. 13-13a06, and amendments thereto. The member appointed under this provision shall be a resident of the county but shall reside outside the city in which the university is located.

~~(4)(D)~~ One member shall be the mayor of the city in which the university is located or another member of the governing body of the city who is selected by the mayor.

~~(5)(E)~~ One member shall be a member of the state board of regents selected by the state board at its regular meeting in September of each year; to serve as a member of the board of regents of the municipal university for the ensuing year.

(2) Resignations from the board of regents of the municipal university shall be made to the chairperson of the board. The chairperson shall report any vacancy occurring in the board to the authority ~~which that~~ appointed the member whose position is vacant. All vacancies shall be filled; by the authority ~~which that~~ appointed the member whose position is vacant, ~~by the appointment of a successor to~~ *and the appointed successor shall* hold office for the remainder of the unexpired term and until a successor is appointed and qualified.

~~(c) The board of regents of the municipal university shall be composed of the members who are holding office and serving on the board on the effective date of this act until their successors are appointed. Thereafter the membership of the board of regents shall be composed as provided for in subsection (a) or subsection (b). The boundaries for the three member districts described in subparagraphs (a)(1)(A) and (b)(1)(A) shall be as follows:~~

(1) *District one shall consist of city council districts two, three and four of the city in which the university is located;*

(2) *district two shall consist of city council districts one, five and six of the city in which the university is located; and*

(3) *district three shall consist of city council districts seven, eight and nine of the city in which the university is located.*

Sec. 2. K.S.A. 13-13a05 is hereby amended to read as follows: 13-13a05. (a) Whenever the board of regents of a municipal university levies a countywide retailers' sales tax pursuant to K.S.A. 13-13a38, *and amendments thereto*, the term of the member appointed from the city-at-large shall lapse. The terms of office of the members from the ~~18th, 19th and 20th state senatorial districts~~ *three board member districts* appointed by the mayor of the city prior to the levying of a countywide retailer's sales tax shall expire on the dates of ~~their~~ *such members* existing terms respectively. Each successor member shall be appointed and hold office for a term of four years and until a successor has been appointed and qualified.

(b) Whenever the board of regents of a municipal university levies a countywide retailers' sales tax pursuant to the provisions of this act, the board of county commissioners of the county in which the university is located shall appoint a member of the board of regents who is a resident of the county but not of the city. The term of office of the appointee shall be for a term of four years and until a successor has been appointed and qualified. Each successor member shall be appointed and hold office for a term of four years and until a successor has been appointed and qualified.

Sec. 3. K.S.A. 13-13a04 and 13-13a05 are hereby repealed.

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

Approved March 31, 2023.

CHAPTER 7

HOUSE BILL No. 2332
(Amended by Chapters 35, 43 and 91)

AN ACT concerning the division of tourism; relating to the transfer of powers, duties and functions from the department of wildlife and parks to the department of commerce; making changes in references and transfers to state officers with respect thereto; amending K.S.A. 2-1314d, 2-2473, 8-134, 32-801, 32-802, 32-805, 32-806, 32-807, 32-809, 32-832, 32-833, 32-834, 32-835, 32-836, 32-837, 32-839, 32-840, 32-844, 32-845, 32-846, 32-869, 32-873, 32-874, 32-874a, 32-874b, 32-874c, 32-874d, 32-874e, 32-886, 32-887, 32-888, 32-906, 32-918, 32-930, 32-932, 32-938, 32-960a, 32-966, 32-976, 32-996, 32-997, 32-998, 32-999, 32-9,100, 32-1001, 32-1004, 32-1005, 32-1031, 32-1032, 32-1040, 32-1041, 32-1049, 32-1049a, 32-1050, 32-1051, 32-1052, 32-1053, 32-1054, 32-1062, 32-1063, 32-1064, 32-1066, 32-1074, 32-1075, 32-1077, 32-1102, 32-1112, 32-1129, 32-1174, 32-1203, 32-1306, 32-1308, 32-1310, 32-1401, 32-1402, 32-1403, 32-1410, 32-1411, 32-1412, 32-1413, 32-1420, 32-1421, 32-1422, 32-1432, 32-1433, 32-1438, 47-2101, 65-189e, 65-3424b, 65-5703, 68-406, 74-134, 74-5,133, 74-2622, 74-3322, 74-4722, 74-4911f, 74-5005, 74-6614, 74-7901, 74-9201, 75-1253, 75-2720, 75-2935, 75-3339, 75-37,121, 75-3907, 75-3908, 75-3910, 76-463, 77-415, 79-201a, 79-3221e, 79-3221h, 79-32,203, 79-5212, 82a-209, 82a-220, 82a-326, 82a-903, 82a-1501, 82a-2001 and 82a-2204 and K.S.A. 2022 Supp. 19-2803b, 19-2803d, 19-2817, 19-2822, 19-2835, 19-2836, 19-2839, 19-2844, 19-2844a, 19-2855, 19-2868, 19-2873, 19-2894, 19-3543, 20-302b, 21-5810, 21-6308a, 21-6416, 22-2512, 32-701, 41-719, 49-408, 58-3221, 58-3225, 74-5602, 77-421 and 79-3234 and repealing the existing sections; also repealing K.S.A. 32-810, 32-811, 32-812, 32-813, 32-814, 32-815, 32-816 and 32-818.

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

Section 1. K.S.A. 2-1314d is hereby amended to read as follows: 2-1314d. (a) There is hereby created the state noxious weed advisory committee, referred to in this act as the state advisory committee. The state advisory committee shall consist of 13 voting members and the secretary as a non-voting ex officio member. The state advisory committee membership shall reflect the different geographic areas of the state equally to the greatest extent possible. Members of the state advisory committee shall receive no compensation for serving on the state advisory committee, but shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto, from moneys appropriated therefor to the Kansas department of agriculture. The 13 voting members shall be appointed by the secretary as follows:

- (1) One member shall be a natural resource management professional from the Kansas department of wildlife, ~~and parks and tourism~~;
- (2) two members shall be weed specialists from Kansas state university college of agriculture or Kansas state research and extension, with one such member having knowledge of non-chemical methods of weed control, and shall be appointed upon the recommendation of the dean of the college of agriculture and the director of Kansas state research and extension;
- (3) one member shall be a county commissioner and shall be appointed upon the recommendation of the Kansas association of counties;

(4) four members shall be private landowners involved in agricultural production, one of whom shall be a Kansas producer who grows traditional Kansas crops, which, for the purposes of this paragraph, means wheat, corn, soybeans, milo, peanuts, cotton, hay or oats, one of whom shall be a Kansas producer who grows non-traditional Kansas crops, and one of whom shall be a certified organic producer;

(5) two members shall be weed supervisors and shall be appointed upon the recommendation of the board of directors of the county weed director's association of Kansas;

(6) one member shall represent the agricultural industries in the state and shall be appointed upon the recommendation of the board of directors of the Kansas agribusiness retailers association;

(7) one member shall be appointed upon the recommendation of the Kansas biological survey; and

(8) one member shall be appointed upon the recommendation of the board of directors of the Kansas cooperative council.

(b) (1) Except as provided in this section, the term of office of each member of the committee shall be four years. The initial appointments to the committee shall be as follows:

(A) Six members shall be appointed for a term of two years;

(B) four members shall be appointed for a term of three years; and

(C) three members shall be appointed for a term of four years.

(2) The secretary shall designate the initial term of office for each member appointed to the first committee.

(3) Each member shall be limited to serving a total of two full terms and shall hold office until the expiration of the term for which such member is appointed or until a successor has been duly appointed.

(4) In the event of a vacancy on the state advisory committee, the recommending body of the vacating member shall make a recommendation to the secretary as prescribed in this section. The secretary shall, as soon as is reasonably possible, appoint a member to fill such vacancy for the remainder of the unexpired term.

(5) The secretary may remove any member of the state advisory committee for misconduct, incompetence or neglect of duty.

(c) (1) A quorum of the state advisory committee shall be a majority of the members duly appointed to the state advisory committee.

(2) A quorum of the state advisory committee shall elect or appoint annually a chairperson and a vice-chairperson.

(d) The state advisory committee shall meet at least once per year, but not more than four times per year.

(e) The state advisory committee shall, among other duties assigned by the secretary:

- (1) Review the state weed management plan every five years and recommend changes and updates to the secretary;
- (2) recommend the designation and classification of noxious weeds in the state through the use of a risk assessment designated by the secretary;
- (3) review the noxious weed act and the rules and regulations of the secretary declaring species of plants to be noxious weeds at least every four years and recommend changes to the secretary;
- (4) review the official methods for the control and eradication for each species of plant declared a noxious weed and recommend changes to the secretary that include both chemical and non-chemical options for such control and eradication; and
- (5) before January 1 of each odd-numbered year, report to the secretary on:
 - (A) The expenditure of state funds on noxious weed control and how such funds were spent;
 - (B) the status of the state and county noxious weed control programs;
 - (C) recommendations for the continued best use of state funds for noxious weed control; and
 - (D) recommendations on long-term noxious weed control needs.
- (f) The state advisory committee shall only make recommendations approved by a majority vote of the members.

Sec. 2. K.S.A. 2-2473 is hereby amended to read as follows: 2-2473.
(a) (1) The pesticide management areas shall be developed by examination of the following factors:

- ~~(1)~~(A) Precipitation;
 - ~~(2)~~(B) topography;
 - ~~(3)~~(C) soil type;
 - ~~(4)~~(D) depth to the watertable; and
 - ~~(5)~~(E) other factors as the secretary deems relevant.
- (2) The areas shall be designated as permitted, modified or prohibited for the use of certain types of pesticides as determined by the pesticide management plan for the management area. The order of the secretary designating such pesticide management area shall define specifically the boundaries of the pesticide management area and shall indicate specifically the pesticide management plan for the area. Pesticide management plans may include provisions for the handling or release of pesticides, including, but not limited to, the application, mixing, loading, storage, disposal or transportation and guidelines for the best management practices.
- (b) (1) When considering whether to establish such pesticide management areas, the secretary shall consult with a pesticide management area technical advisory committee composed of a representative or representatives of each of the following:

~~(1)(A)~~ Kansas department of health and environment appointed by the secretary of health and environment;

~~(2)(B)~~ Kansas department of wildlife, *and* parks ~~and tourism~~ appointed by the secretary of wildlife, *and* parks ~~and tourism~~;

~~(3)(C)~~ Kansas state university appointed by the president of Kansas state university;

~~(4)(D)~~ Kansas water authority appointed by the chairperson of the Kansas water authority;

~~(5)(E)~~ conservation commission appointed by the chairperson of the state conservation commission;

~~(6)(F)~~ Kansas geological survey appointed by the state geologist; and

~~(7)(G)~~ other persons the secretary determines to have beneficial information to the establishment of such areas as appointed by the secretary.

(2) This technical advisory committee shall assist the secretary in the development of the proposed boundaries of the pesticide management area and the proposed plan for the pesticide management area.

Sec. 3. K.S.A. 8-134 is hereby amended to read as follows: 8-134. (a) Every vehicle registration under this act shall expire December 31 of each year, except passenger vehicles and vehicles provided for in K.S.A. 8-134a, and amendments thereto. The registration of vehicles to which K.S.A. 8-134a, and amendments thereto, applies shall expire in 1982 and thereafter in accordance with the provisions of subsections (b) and (c). Registration of vehicles shall be renewed annually upon application by the owner and by payment of the fees required by law. Except vehicles subject to K.S.A. 8-134a, and amendments thereto, and passenger vehicles, the renewal shall take effect on January 1 of each year, but the owner of the vehicle shall have until and including the last day of February of each year ~~within which~~ to make application for such renewal. The division shall issue for such vehicles a February month decal to correspond with the statutory grace period. Criminal sanctions provided in K.S.A. 8-142, and amendments thereto, for failure to display any license plate or plates or any registration decal required to be affixed to any such license plate for the current registration year shall not be enforced until March 1 of each year. An owner who has made proper application for renewal of registration of a vehicle prior to January 1, but who has not received the license plate or registration card for the ensuing year, shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the license plate issued for the preceding year for such time as the director of vehicles finds necessary for issuance of such new license plate.

(b) Every passenger vehicle required by this act to be registered, except as otherwise provided, shall be registered for a period of 12 consecutive months. The division of vehicles, in order to initiate a system

of registering or reregistering passenger vehicles during any month of a calendar year, may register or reregister a passenger vehicle for less than a ~~twelve-month~~ *12-month* period, prorating the annual registration fee, when in the director's opinion such proration tends to fulfill the purpose of the monthly registration system.

(c) Passenger vehicle registration, and the authority to legally operate, use, or tow such vehicle on the highway shall expire at 12 midnight on the last day of the last month of the ~~twelve-month~~ *12-month* period for which such vehicle was registered, and the owner shall see that such vehicle is reregistered as required by this act. The director of vehicles shall designate the registration period for each passenger vehicle in order to as nearly as feasible equalize registration or reregistration within the 12 months of the year. Any vehicle after having once been registered shall upon reregistration, be registered for the same twelve-month period except when the certificate of title has been transferred as provided by law. In this case, the vehicle shall be registered by the division of vehicles in accordance with the system adopted.

(d) For the purpose of this act, hearses and electrically propelled vehicles shall be classified as passenger vehicles.

(e) Every owner who registers or reregisters a vehicle in a calendar year, and in any calendar year in which a license plate is not issued for the renewal of registration of such vehicle, shall be furnished by the division one decal for the license plate issued for such vehicle and required by K.S.A. 8-133, and amendments thereto, to be affixed to the rear of such vehicle. Such decal shall be affixed to the number plate affixed to the rear of such vehicle and shall contain the letters designating the county in which such vehicle is registered, as provided in K.S.A. 8-147, and amendments thereto, shall indicate the license plate number for which the decal is to be affixed and shall indicate the year in which such registration expires. The color of a decal shall be such that it contrasts with the color of the license plate to which it is to be affixed, and the director of vehicles shall change the color of such decals each year, without duplicating the same color in any five-year period or such extended period as the director designates under K.S.A. 8-132(b), and amendments thereto. Such decals shall be so constructed that once a decal has been affixed to a license plate it cannot be removed without destroying the decal, and the surface of such decals shall be capable of reflecting light. Consistent with the foregoing, the director of vehicles shall prescribe the size of and material to be used in the production of such decals, and the director of vehicles shall designate the location on a number plate where such decal shall be affixed.

(f) (1) The owner of a vehicle may, at the time of such registration or reregistration, purchase a park and recreation motor vehicle permit.

Such permit shall cost \$15 until such time as the amount for such permit is changed by rules and regulations of the secretary of wildlife, *and parks and tourism*.

(2) Such permit shall be nontransferable and shall expire on the date of expiration of the vehicle registration.

(3) Except as provided in subsection (f)(4), the county treasurer shall remit all such moneys paid to the county treasurer to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall be credited as provided in K.S.A. 32-991, and amendments thereto.

(4) The county treasurer may collect and retain a service charge fee of up to \$.50 for each park and recreation motor vehicle permit issued or sold by the county treasurer.

(5) As a condition of receiving the park and recreation motor vehicle permit, the applicant shall consent to the sharing of information, including, but not limited to, the applicant's name, address, email address and phone number, with the secretary of wildlife, *and parks and tourism* by the division of motor vehicles.

(g) The secretary of revenue shall adopt rules and regulations necessary to accomplish the purpose of this act.

Sec. 4. K.S.A. 2022 Supp. 19-2803b is hereby amended to read as follows: 19-2803b. The board of commissioners of any county ~~which~~ *that* has previously acquired real estate under K.S.A. 19-2801, and amendments thereto, or its predecessors, and ~~which~~ has not constructed and completed a lake or park facility thereon, is hereby authorized, without an election, to convey the fee simple title to such real estate to the Kansas department of wildlife, *and parks and tourism* by a proper deed of conveyance.

Sec. 5. K.S.A. 2022 Supp. 19-2803d is hereby amended to read as follows: 19-2803d. The board of county commissioners may receive donations and bequests of either money or property for the purpose of establishing and maintaining such lake and recreational grounds. The board shall make all regulations necessary for the supervision and conduct of such lake and recreational grounds, subject to the rules and regulations of the secretary of wildlife, *and parks and tourism*, and may employ a supervisor and such other assistants as may be necessary to properly care for and manage the same.

Sec. 6. K.S.A. 2022 Supp. 19-2817 is hereby amended to read as follows: 19-2817. The board of county commissioners of any county to which this act applies and the secretary of wildlife, *and parks and tourism* are each authorized and empowered to enter into an agreement to provide for the building and construction of one or more reservoirs, lakes, dams

or embankments for impounding water on lands in the park and recreational grounds of any such county and to provide for the use, control and maintenance of such park and recreational grounds. Nothing in such agreement shall be construed to prohibit the secretary of wildlife, *and parks and tourism* or the Kansas department of wildlife, *and parks and tourism* from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired for the department, and the agreement between any such county and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such county, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public.

Sec. 7. K.S.A. 2022 Supp. 19-2822 is hereby amended to read as follows: 19-2822. The board of county commissioners of any county to which this act applies and the secretary of wildlife, *and parks and tourism* are each authorized and empowered to enter into an agreement to provide for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of any such county and to provide for the use, control and maintenance of such park and recreational grounds. Nothing in such agreement shall be construed to prohibit the secretary of wildlife, *and parks and tourism* or the Kansas department of wildlife, *and parks and tourism* from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired by the department, and the agreement between any such county and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such county, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public.

Sec. 8. K.S.A. 2022 Supp. 19-2835 is hereby amended to read as follows: 19-2835. The board of county commissioners of any such county shall have the right to aid, assist, furnish and pay for a part or the whole of any real estate or property or constructing the whole or a part of any dam or construction work deemed by them necessary or proper in the aiding or assisting the Kansas department of wildlife, *and parks and tourism* in the acquisition of a lake, park and recreational site or sites and in the construction of dams, lakes and reservoirs or construction work thereon, so as to insure the completion of a lake, park or recreational grounds in such county. The control and direction of the construction work shall be

as determined by the board of county commissioners and the department should the department be in whole or in part interested in such project as such. The title to such real estate or part of such real estate as may be paid for exclusively by such board of county commissioners shall be taken in the name of the county or in the name of the state of Kansas, as the board of county commissioners and the department may agree, but the real estate paid for exclusively by the county shall revert to the county should such project ever be abandoned as a park or recreational project.

Sec. 9. K.S.A. 2022 Supp. 19-2836 is hereby amended to read as follows: 19-2836. (a) Before any board of county commissioners is authorized to proceed under this act, there shall be filed with such board under the certificate of the engineer for the Kansas department of wildlife, *and parks and tourism*, or the county engineer of such county, maps, plans and specifications showing:

- (1) The description or outline of the land to be in such project;
- (2) the portion of such land, if any, owned by the state of Kansas or the department;
- (3) the portion of the land to be purchased by the county, if any;
- (4) the probable acre surface area of water to be impounded, estimating such acreage at low-water time; *and*
- (5) a brief outline of the proposed plan of construction and of estimated cost thereof, including the estimated part of the cost, if any, to be borne by the county, the part of the cost, if any, to be borne by the department and the part of the cost, if any, to be borne by any other state or federal agencies or individuals.

(b) The cost of such maps, plans, specifications and preliminary work may be paid for by the county out of its general fund.

Sec. 10. K.S.A. 2022 Supp. 19-2839 is hereby amended to read as follows: 19-2839. The construction work may be let by contract or done by day labor, as the board of county commissioners and the secretary of wildlife, *and parks and tourism* may agree upon, and such board and such secretary are hereby authorized to accept funds from the state or any federal agencies or donations or bequests from any individuals in the promotion and completion of such work.

Sec. 11. K.S.A. 2022 Supp. 19-2844 is hereby amended to read as follows: 19-2844. The boards of county commissioners of any counties to which this act applies and the secretary of wildlife, *and parks and tourism* are authorized and empowered to enter into an agreement to provide for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of any such counties and to provide for the use, control and maintenance of such park and recreational grounds. Nothing in such

agreement shall be construed to prohibit the secretary of wildlife, *and parks-and-tourism* or the Kansas department of wildlife, *and parks-and-tourism* from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired for the department, and the agreement between any such counties and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such counties, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public.

Sec. 12. K.S.A. 2022 Supp. 19-2844a is hereby amended to read as follows: 19-2844a. Whenever a lake is being constructed by the Kansas department of wildlife, *and parks-and-tourism* in any county within three miles of the county line of an adjoining county, the board of county commissioners of such adjoining county is hereby authorized to construct or aid in the construction of roads and bridges around such lake in the county in which such lake is situated and access roads thereto. The board of county commissioners of such adjoining county shall, by resolution, find that the lake is of public benefit to its county and fix the amount of money from its road and bridge fund to be expended for such purpose. Such board is authorized to enter into such agreements as may be necessary with the board of county commissioners of the county in which the lake is situated for the separate or joint construction and maintenance of such roads and bridges. Any roads so constructed shall have access to roads in such adjoining county.

Sec. 13. K.S.A. 2022 Supp. 19-2855 is hereby amended to read as follows: 19-2855. (a) The county board of park commissioners shall be vested with all the power, authority and control previously vested in the board of county commissioners relating to county parks, parkways and recreational areas, county lakes, roads and park drives, including all buildings, grounds and other structures located within such county parks, parkways and recreational areas. It shall have power to make bylaws, rules and regulations for the orderly transaction and management of its business. It is further empowered to enter into agreements with the secretary of wildlife, *and parks-and-tourism*, by and with the consent of the board of county commissioners, for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of the county. Nothing in such agreements shall be construed to prohibit the secretary and the Kansas department of wildlife, *and parks-and-tourism* from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired by the department, and any

agreement between any such county board of park commissioners and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such county, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public. All bonds required or authorized by law to be issued relating to parks, parkways and recreational areas, and all taxes levied for the maintenance or improvement thereof, shall be issued and levied by the board of county commissioners, and for the purpose of creating such county park and recreational fund, hereinafter referred to, and for the purpose of enlarging existing park areas or acquiring additional park and recreational grounds or sites and for the making of permanent improvements to and for maintaining such park, recreational grounds or sites now owned or hereafter acquired by such county and 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, the board of county commissioners is hereby authorized to levy an annual tax on all taxable tangible property in the county.

(b) Such new or additional grounds or sites for park and recreational purposes may be acquired by the board of county commissioners of such county by purchase, donation, long term leases or easements or the exercise of the right of eminent domain, as provided for in chapter 26 of the Kansas Statutes Annotated, and amendments thereto. Following the acquisition of such grounds or sites, the county board of park commissioners shall improve, maintain and supervise all such park and recreational areas in the manner now provided by law. The board of county commissioners of any such county, with the consent of the board of park commissioners of any such county, may convey title to such portion or portions of the new park and recreational areas so acquired under the provisions of this act to any federal nonprofit corporation or foundation created under the laws of the United States, for the purpose of establishing and maintaining any national shrine, park or memorial upon any land in such county, ~~which~~ *that* adjoins, abuts or is adjacent to the new park and recreational areas so acquired by any such county under the provisions of this act. The board of county commissioners shall have the power and duty, upon recommendation of the county board of park commissioners, to adopt resolutions from time to time for the regulation and orderly government of parks, parkways, recreational areas, county lakes, roads, park drives and public grounds, and to prescribe fines and penalties for the violation of the provisions of such resolutions.

Sec. 14. K.S.A. 2022 Supp. 19-2868 is hereby amended to read as follows: 19-2868. The board shall have power to:

(a) Finance, operate, improve and maintain the parks and playgrounds of the district as provided in this act;

(b) accept by gift or devise; purchase, lease and condemn real estate for use as parks and playgrounds for the district; sell any improvements of any real estate so acquired not usable for park purposes or take down such improvements and use or dispose of the salvage and use any of the proceeds thereof for park purposes without regard to budget limitations; and contract with school boards for joint use and improvement of school lands for park and playground purposes;

(c) improve the parks and playgrounds for the recreation, amusement and enjoyment of the inhabitants of the district;

(d) levy taxes for the acquisition of lands and improvements and operation, improvement and maintenance of the parks and playgrounds as authorized and limited by this act;

(e) issue bonds of the district for acquiring real estate and the improvement thereof for park and playground purposes upon authorization of the qualified electors of the district by election and within the limitations provided by this act;

(f) appoint park and recreation supervisory personnel and employ such other employees, servants, police and agents as may be necessary for the proper and adequate operation, improvement and maintenance of the park and recreation district, and may appoint, employ or retain attorneys, engineers, landscape architects, surveyors and other professional or technical persons or firms for a period or for specified projects and pay the necessary compensation therefor;

(g) adopt, promulgate and enforce reasonable rules and regulations for the operation and use of the parks and playgrounds and the conduct of persons using such parks and playgrounds as provided by this act;

(h) sell or salvage equipment found to be worn out or beyond repair or dangerous to use or to trade it in as part payment on new equipment, and the proceeds when resold or the trade-in value shall not be charged against the budget but may be in addition to the amount authorized for expenditure by the budget;

(i) sell and convey real estate acquired by purchase, condemnation, gift or devise when it appears such property is no longer needed for park, playground or recreational purposes, or is poorly situated for such purposes, or is poorly suited for such purposes, with the proceeds of such sale to be deposited in the land acquisition fund authorized by K.S.A. 19-2873b, and amendments thereto. No such sale shall be made except upon authorization of the majority of the votes cast by the qualified electors of the district at an election called and held for such purpose as provided by this act. If the instrument of gift or devise vests fee title in the district or authorizes the district to sell the real property, such property may be sold by

the procedure herein provided. The board, when in its judgment deemed advisable and to the best interests of the district, by proper conveyances, may exchange any tract of land for lands similar in value, or exchange money and land for other land suitable for park or recreation purposes, or exchange land for land and money totaling the value of the land conveyed, provided that the money involved does not exceed 25% of the total value of the land involved, without vote of the qualified electors of the park district, subject to a public hearing having first been held with respect to such proposed exchange of lands, after notice of the time, place and purpose thereof, including a legal description of said lands, published once each week for two consecutive weeks prior thereto, in the official county paper, and subject further to final approval of such proposed exchange of lands, by the board of county commissioners of Johnson county, Kansas. The board may by proper conveyance exchange, transfer, sell, or lease any tract of district land with or without improvements to the state of Kansas, a political subdivision thereof, or an agency of the United States government, if the board determines that such property can properly be maintained and operated as park, playground, or recreational facilities by such governmental agency, or that such property may be utilized in whole or part in a contract with said governmental agencies in, on, or around other property of such governmental units, all or any part of which is located within boundaries of such district;

(j) adopt, change and modify a seal for the district and to use such seal in attestations by the secretary and in all other cases where a seal is required or advisable;

(k) cooperate with the Kansas department of wildlife, ~~and parks and tourism~~ and with Miami county in the operation, improvement and maintenance of Hillsdale state park and to enforce rules and regulations for the operation of such park land; and

(l) do all other things provided by this act, and amendments thereto, have all the powers prescribed by this act and carry out and exercise the powers of the district as its governing body.

Sec. 15. K.S.A. 2022 Supp. 19-2873 is hereby amended to read as follows: 19-2873. (a) The board may by resolution adopt rules and regulations for the operation of the park and recreation district and rules and regulations applying to any particular park or playground and prescribe penalties for violation of any rules and regulations relating to the conduct of persons in the parks and playgrounds or park or playgrounds. Such penalties shall not exceed imprisonment in the county jail for not to exceed three months or a fine not to exceed \$100 or both. Any rules and regulations for the conduct of persons, applying to all parks or any park and providing penalties, shall be published once in the official county paper and copies of the rules and regulations shall be posted and kept

posted in all parks to which they are applicable, and the violation of any penal rule or regulation when so published and posted shall constitute a misdemeanor.

(b) No charge shall be made for entrance into any park and no admission charge shall be made for use of any of the facilities of any park. The board may lease sites for food, soft drinks, boat rentals, amusements and other concessions as in its judgment may be deemed appropriate and lawful for the comfort, convenience and enjoyment of the public, and may limit purchase and use charges to be made by concessionaires in operating the same. The board may establish and operate food, soft drinks, boat rentals, amusements and other lawful and appropriate conveniences as may in its judgment be necessary or appeal to the public comfort and enjoyment, all in accordance with K.S.A. 19-2873a, and amendments thereto. A reasonable fee may be charged for recreational activities and the board may regulate and control all fishing and boating within the boundaries of park property, including daily and possession limits of fish caught and time limits when fishing may be restricted, subject to law and rules and regulations of the secretary of wildlife, ~~and parks and tourism~~ with respect to such fishing and boating; and may require a park permit for fishing and boating for which a reasonable fee may be charged all persons so engaged.

(c) A separate schedule of fees may be established for nonresidents. The board may enter into long term leases for such authorized concessions, not to exceed 50 years, under the terms of which the concessionaires (lessees), shall at their own expense, construct and install the facilities and improvements to be occupied and used under such lease, upon such terms, conditions and control as the park and recreation district may require and subject in all such long term leases to unconditional reversion of title to such facilities and improvements so constructed by the concessionaire to the district upon the expiration of the term of such lease or upon abandonment or forfeiture thereof by the concessionaire prior to its expiration.

Sec. 16. K.S.A. 2022 Supp. 19-2894 is hereby amended to read as follows: 19-2894. (a) The park board may by resolution adopt rules and regulations for the operation of the park district and prescribe penalties for violation of any rules and regulations relating to the conduct of persons in the area where improvements are established. Such penalties shall not exceed imprisonment in the county jail for not to exceed three months or a fine of not to exceed \$100 or both. Any rules and regulations for the conduct of persons and providing penalties shall be published once in the official county paper and copies of the rules and regulations shall be posted and kept posted in all areas to which they are applicable, and the violation of any penal rule or regulation when so published and posted shall constitute a misdemeanor.

(b) No charge shall be made for entrance into any improved area and no admission charge shall be made for use of any of the facilities, except that the park board may lease sites for food, soft drinks, boat rentals, amusements and other concessions as in its judgment may be deemed appropriate and lawful for the comfort, convenience and enjoyment of the public, and may limit purchase and use charges to be made by concessionaires in operating them. The park board may regulate and control all fishing and boating within the boundaries of park property, including daily and possession limits of fish caught and time limits when fishing may be restricted, subject to law and rules and regulations of the secretary of wildlife, ~~and parks and tourism~~, and may require a park permit for fishing and boating for which a reasonable fee may be charged all persons so engaged.

Sec. 17. K.S.A. 2022 Supp. 19-3543 is hereby amended to read as follows: 19-3543. The board shall have power to construct and maintain water lines through, under, across or along any public highway. The board is hereby authorized to enter into contracts with the secretary of wildlife, ~~and parks and tourism~~ for the purchase of water for use by the district and for the sale of the same for domestic or other uses.

Sec. 18. K.S.A. 2022 Supp. 20-302b is hereby amended to read as follows: 20-302b. (a) Subject to assignment pursuant to K.S.A. 20-329, and amendments thereto, a district magistrate judge shall have the jurisdiction and power, in any case in which a violation of the laws of the state is charged, to conduct the trial of traffic infractions, violations of the wildlife, ~~and parks and tourism~~ laws of this state or rules and regulations adopted thereunder, cigarette or tobacco infractions or misdemeanor charges, to conduct felony first appearance hearings and the preliminary examination of felony charges and to hear misdemeanor or felony arraignments. A district magistrate judge shall have jurisdiction over uncontested actions for divorce. Except as otherwise specifically provided in this section, a district magistrate judge shall have jurisdiction over actions filed under the code of civil procedure for limited actions, K.S.A. 61-2801 et seq., and amendments thereto, and all other civil cases, and shall have concurrent jurisdiction, powers and duties with a district judge. Except with consent of the parties, or as otherwise specifically provided in this section, a district magistrate judge shall not have jurisdiction or cognizance over the following actions:

(1) Any action, other than an action seeking judgment for an unsecured debt not sounding in tort and arising out of a contract for the provision of goods, services or money, in which the amount in controversy, exclusive of interests and costs, exceeds \$10,000. The provisions of this subsection shall not apply to actions filed under the code of civil procedure for limited actions, K.S.A. 61-2801 et seq., and amendments thereto. In actions of replevin, the affidavit in replevin or the verified petition fix-

ing the value of the property shall govern the jurisdiction. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code or to issue support orders as provided by subsection (a)(6);

(2) actions against any officers of the state, or any subdivisions thereof, for misconduct in office;

(3) actions for specific performance of contracts for real estate;

(4) actions in which title to real estate is sought to be recovered or in which an interest in real estate, either legal or equitable, is sought to be established. Nothing in this paragraph shall be construed as limiting the right to bring an action for forcible detainer as provided in the acts contained in K.S.A. 61-3801 through 61-3808, and amendments thereto. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to hear any action pursuant to the Kansas probate code;

(5) actions to foreclose real estate mortgages or to establish and foreclose liens on real estate as provided in the acts contained in article 11 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto;

(6) contested actions for divorce, separate maintenance or custody of minor children. Nothing in this paragraph shall be construed as limiting the power of a district magistrate judge to:

(A) Except as provided in subsection (e), hear any action pursuant to the Kansas code for care of children or the revised Kansas juvenile justice code;

(B) establish, modify or enforce orders of support, including, but not limited to, orders of support pursuant to the Kansas parentage act, K.S.A. 2022 Supp. 23-2201 et seq., and amendments thereto, the uniform interstate family support act, K.S.A. 2022 Supp. 23-36,101 et seq., and amendments thereto, articles 29 or 30 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 39-709, 39-718b or 39-755 or K.S.A. 2022 Supp. 23-3101 through 23-3113, 38-2348, 38-2349 or 38-2350, and amendments thereto; or

(C) enforce orders granting visitation rights or parenting time;

(7) habeas corpus;

(8) receiverships;

(9) declaratory judgments;

(10) mandamus and quo warranto;

(11) injunctions;

(12) class actions; and

(13) actions pursuant to K.S.A. 59-29a01 et seq., and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), in the absence, disability or disqualification of a district judge, a district magistrate judge may:

(1) Grant a restraining order, as provided in K.S.A. 60-902, and amendments thereto;

(2) appoint a receiver, as provided in K.S.A. 60-1301, and amendments thereto; and

(3) make any order authorized by K.S.A. 23-2707, and amendments thereto.

(c) (1) Every action or proceeding before a district magistrate judge regularly admitted to practice law in Kansas shall be on the record if such action or proceeding would be on the record before a district judge.

(2) In accordance with the limitations and procedures prescribed by law, and subject to any rules of the supreme court relating thereto, any appeal permitted to be taken from an order or final decision of a district magistrate judge:

(A) Who is not regularly admitted to practice law in Kansas shall be tried and determined de novo by a district judge, except that in civil cases where a record was made of the action or proceeding before the district magistrate judge, the appeal shall be tried and determined on the record by a district judge; and

(B) who is regularly admitted to practice law in Kansas shall be to the court of appeals.

(d) Except as provided in subsection (e), upon motion of a party, the chief judge may reassign an action from a district magistrate judge to a district judge.

(e) Upon motion of a party, the chief judge shall reassign a petition or motion requesting termination of parental rights pursuant to K.S.A. 38-2266 and 38-2267, and amendments thereto, from a district magistrate judge to a district judge.

(f) This section shall apply to every action or proceeding on or after July 1, 2014, regardless of the date such action or proceeding was filed or commenced.

Sec. 19. K.S.A. 2022 Supp. 21-5810 is hereby amended to read as follows: 21-5810. (a) Criminal hunting is knowingly hunting, shooting, fur harvesting, pursuing any bird or animal, or fishing:

(1) Upon any land or nonnavigable body of water of another, without having first obtained permission of the owner or person in possession of such premises;

(2) upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises; or

(3) upon any land or nonnavigable body of water of another by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person remains therein and continues to hunt, shoot, fur harvest, pursue any bird or animal or fish in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

(B) such premises or property are posted in a manner consistent with K.S.A. 32-1013, and amendments thereto.

(b) Criminal hunting as defined in:

(1) Subsection (a)(1) or (a)(2) is a class C *nonperson* misdemeanor. Upon the first conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting, fishing or fur harvesting, or all, for up to one year from the date of such conviction. Upon a second or subsequent conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting, fishing or fur harvesting, or all, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit, except that this provision shall not authorize a person to remain on such land if instructed to leave by the owner thereof or other authorized person. For the purpose of determining whether a conviction is a first, second or subsequent conviction of subsection (a)(1) or (a)(2), "conviction" or "convicted" includes being convicted of a violation of ~~subsection (a) of~~ K.S.A. 21-3728(a), prior to its repeal, or subsection (a)(1) or (a)(2); and

(2) subsection (a)(3) is a class B *nonperson* misdemeanor. Upon the first conviction or a diversion agreement of subsection (a)(3), in addition to any authorized sentence imposed by the court, the court shall require forfeiture of such person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for six months. Upon the second conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for one year. Upon

the third or subsequent conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for five years. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction of subsection (a)(3), "conviction" or "convicted" includes being convicted of a violation of ~~subsection (b) of K.S.A. 21-3728(b)~~, prior to its repeal, or subsection (a)(3).

(c) The court shall notify the Kansas department of wildlife, *and* parks ~~and tourism~~ of any conviction or diversion for a violation of this section.

Sec. 20. K.S.A. 2022 Supp. 21-6308a is hereby amended to read as follows: 21-6308a. (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.

(b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:

(1) The firearm is discharged in the lawful defense of one's person, another person or one's property;

(2) the firearm is discharged at a private or public shooting range;

(3) the firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, *and* parks ~~and tourism~~ or the governing body of the city;

(4) the firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, *and* parks ~~and tourism~~;

(5) the firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;

(6) the firearm is discharged using blanks; or

(7) the firearm is discharged in lawful self-defense or defense of another person against an animal attack.

(c) A violation of subsection (a) shall be a class B nonperson misdemeanor.

Sec. 21. K.S.A. 2022 Supp. 21-6416 is hereby amended to read as follows: 21-6416. (a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is knowingly, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, assistance dog, game warden dog or search and rescue dog.

(b) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a nonperson felony. Upon conviction of this subsection, a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not

be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

(c) As used in this section:

(1) “Arson dog” means any dog ~~which~~ *that* is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires;

(2) “assistance dog” ~~has the meaning provided by~~ *means the same as defined in* K.S.A. 39-1113, and amendments thereto;

(3) “fire department” means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district;

(4) “game warden dog” means any dog ~~which~~ *that* is owned, or the service of which is employed, by the Kansas department of wildlife, ~~and parks and tourism~~ for the purpose of aiding in detection of criminal activity, enforcement of laws, apprehension of offenders or location of persons or wildlife;

(5) “police dog” means any dog ~~which~~ *that* is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders; and

(6) “search and rescue dog” means any dog ~~which~~ *that* is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

Sec. 22. K.S.A. 2022 Supp. 22-2512 is hereby amended to read as follows: 22-2512. (a) Property seized under a search warrant or validly seized without a warrant shall be safely kept by the officer seizing the same unless otherwise directed by the magistrate, and shall be so kept as long as necessary for the purpose of being produced as evidence on any trial. The property seized may not be taken from the officer having it in custody so long as it is or may be required as evidence in any trial. The officer seizing the property shall give a receipt to the person detained or arrested particularly describing each article of property being held and shall file a copy of such receipt with the magistrate before whom the person detained or

arrested is taken. Where seized property is no longer required as evidence in the prosecution of any indictment or information, the court which has jurisdiction of such property may transfer the same to the jurisdiction of any other court, including courts of another state or federal courts, where it is shown to the satisfaction of the court that such property is required as evidence in any prosecution in such other court.

(b) (1) Notwithstanding the provisions of subsection (a) and with the approval of the affected court, any law enforcement officer who seizes hazardous materials as evidence related to a criminal investigation may collect representative samples of such hazardous materials, and lawfully destroy or dispose of, or direct another person to lawfully destroy or dispose of the remaining quantity of such hazardous materials.

(2) In any prosecution, representative samples of hazardous materials accompanied by photographs, videotapes, laboratory analysis reports or other means used to verify and document the identity and quantity of the material shall be deemed competent evidence of such hazardous materials and shall be admissible in any proceeding, hearing or trial as if such materials had been introduced as evidence.

(3) As used in this section, the term “hazardous materials” means any substance ~~which~~ *that* is capable of posing an unreasonable risk to health, safety and property. ~~It shall include “Hazardous materials” includes~~ any substance ~~which~~ *that* by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material ~~which~~ *that* may cause spontaneous combustion. ~~It shall include “Hazardous materials” includes,~~ but *is not* be limited to, substances listed in the table of hazardous materials contained in the code of federal regulations title 49 and national fire protection association’s fire protection guide on hazardous materials.

(4) The provisions of this subsection shall not apply to ammunition and components thereof.

(c) When property seized is no longer required as evidence, it shall be disposed of as follows:

(1) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(2) money shall be restored to the owner unless it was contained in a slot machine or otherwise used in unlawful gambling or lotteries, in which case it shall be forfeited, and shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

(3) property ~~which~~ *that* is unclaimed or the ownership of which is unknown shall be sold at public auction to be held by the sheriff and the proceeds, less the cost of sale and any storage charges incurred in preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

(4) articles of contraband shall be destroyed, except that any such articles the disposition of which is otherwise provided by law shall be dealt with as so provided and any such articles the disposition of which is not otherwise provided by law and which may be capable of innocent use may in the discretion of the court be sold and the proceeds disposed of as provided in subsection (c)(3);

(5) explosives, bombs and like devices, ~~which~~ *that* have been used in the commission of crime; may be returned to the rightful owner, or in the discretion of the court having jurisdiction of the property, destroyed or forfeited to the Kansas bureau of investigation;

(6) (A) except as provided in subsections (c)(6)(B) and (d), any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be *forfeited to*:

(i) ~~Forfeited to~~ The law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;

(ii) ~~forfeited to~~ the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory;

(iii) ~~forfeited to~~ a county regional forensic science center; or other county forensic laboratory for testing, comparison or other forensic science purposes; or

(iv) ~~forfeited to~~ the Kansas department of wildlife, *and* parks ~~and tourism~~ for use pursuant to the conditions set forth in K.S.A. 32-1047, and amendments thereto.

(B) Except as provided in subsection (d), any weapon ~~which~~ *that* cannot be forfeited pursuant to subsection (c)(6)(A) due to the condition of the weapon, and any weapon which was used in the commission of a felony as described in K.S.A. 2022 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or 21-5405, and amendments thereto, shall be destroyed.

(7) controlled substances forfeited for violations of K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt with as provided under K.S.A. 60-4101 through 60-4126, and amendments thereto;

(8) unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

(d) If a weapon is seized from an individual and the individual is not convicted of or adjudicated as a juvenile offender for the violation for which the weapon was seized, then within 30 days after the declination or conclusion of prosecution of the case against the individual, including any period of appeal, the law enforcement agency that seized the weap-

on shall verify that the weapon is not stolen, and upon such verification shall notify the person from whom it was seized that the weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.

(e) If weapons are sold as authorized by subsection (c)(6)(A), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

(f) For purposes of this section, the term “weapon” means a weapon described in K.S.A. 2022 Supp. 21-6301, and amendments thereto.

Sec. 23. K.S.A. 2022 Supp. 32-701 is hereby amended to read as follows: 32-701. As used in the wildlife, ~~and parks and tourism~~ laws of this state, unless the context otherwise requires or specifically defined otherwise:

- (a) “Big game animal” means any antelope, deer or elk.
- (b) “Commission” means the Kansas wildlife and parks commission created by K.S.A. 32-805, and amendments thereto.
- (c) “Department” means the Kansas department of wildlife and parks.
- (d) “Fish,” as a verb, means take, in any manner, any fish.
- (e) “Furbearing animal” means any badger, beaver, bobcat, grey fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, red fox, spotted skunk, striped skunk, swift fox or weasel.
- (f) “Furharvest” means:
 - (1) Take, in any manner, any furbearing animal; or
 - (2) trap or attempt to trap any coyote.
- (g) “Game animal” means any big game animal, wild turkey or small game animal.
- (h) “Game bird” means any grouse, partridge, pheasant, prairie chicken or quail.
- (i) “Hunt” means:
 - (1) Take, in any manner, any wildlife other than a fish, bullfrog, furbearing animal or coyote; or
 - (2) take, in any manner other than by trapping, any coyote.
- (j) “Motor vehicle” means a vehicle, other than a motorized wheelchair or electric-assisted bicycle, that is self-propelled.
- (k) “Motorized wheelchair” means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.
- (l) “Nonresident” means any person who has not been a bona fide resident of this state for the immediately preceding 60 days.
- (m) “On a commercial basis” means for valuable consideration.
- (n) “Person” means any individual or any unincorporated association, trust, partnership, public or private corporation or governmental entity, including foreign governments, or any officer, employee, agent or agency thereof.

(o) “Private water fishing impoundment” means one or more water impoundments:

(1) Constructed by man rather than natural, located wholly within the boundary of the lands owned or leased by the person operating the private water impoundments; and

(2) entirely isolated from other surface water so that the impoundment does not have any connection either continuously or at intervals, except during periods of floods, with streams or other bodies of water so as to permit the fish to move between streams or other bodies of water and the private water impoundments, except that the private water impoundments may be connected with a stream or other body of water by a pipe or conduit if fish will be prevented at all times from moving between streams or other bodies of water and the private water impoundment by screening the flow or by other means.

(p) “Resident” means any person who has maintained the person’s place of permanent abode in this state for a period of 60 days immediately preceding the person’s application for any license, permit, stamp or other issue of the department. Domiciliary intent is required to establish that a person is maintaining the person’s place or permanent abode in this state. Mere ownership of property is not sufficient to establish domiciliary intent. Evidence of domiciliary intent includes, without limitation, the location where the person votes, pays personal income taxes or obtains a driver’s license.

(q) “Secretary” means the secretary of wildlife and parks.

(r) “Small game” means any game bird, hare, rabbit or squirrel.

(s) “Species” includes any subspecies of wildlife and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(t) “Take” means harass, harm, pursue, shoot, wound, kill, molest, trap, capture, collect, catch, possess or otherwise take, or attempt to engage in any such conduct.

(u) (1) “Wildlife” means any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof.

(2) “Wildlife” does not include agricultural livestock, including, but not limited to, cattle, swine, sheep, goats, horses, mules and other equines, and poultry, including, but not limited to, domestic chickens, turkeys and guinea fowl.

Sec. 24. K.S.A. 32-801 is hereby amended to read as follows: 32-801. (a) In order to reorganize the administration, planning and regulation of the state’s parks, wildlife and other natural resources, there is hereby established within the executive branch of government the Kansas depart-

ment of wildlife; *and parks and tourism*, which shall be administered under the direction and supervision of a secretary of wildlife; *and parks and tourism* who shall be appointed by the governor, with the consent of the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as secretary shall exercise any power, duty or function as secretary until confirmed by the senate.

(b) The secretary shall be fully qualified by education, training and experience in wildlife, parks or natural resources, or a related field, and shall have a demonstrated executive and administrative ability to discharge the duties of the office of secretary. The secretary shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the governor.

(c) The provisions of the Kansas governmental operations accountability law apply to the Kansas department of wildlife; *and parks and tourism*, and the department is subject to audit, review and evaluation under such law.

Sec. 25. K.S.A. 32-802 is hereby amended to read as follows: 32-802.

(a) The secretary of *wildlife and parks* shall appoint an assistant secretary for administration, ~~an assistant secretary for wildlife, fisheries and boating~~ and an assistant secretary for ~~parks and tourism~~ *operations*. The assistant secretary for administration shall be fully qualified by education, training and experience in administration. The assistant secretary for ~~wildlife, fisheries and boating~~ *operations* shall be fully qualified by education, training and experience in wildlife, natural resources or a related field. ~~The assistant secretary for parks and tourism shall be fully qualified by education, training and experience in parks, tourism or related field.~~ All assistant secretaries shall have a demonstrated executive and administrative ability to discharge the duties of the office of assistant secretary. The assistant secretaries shall serve at the pleasure of the secretary. The assistant secretaries shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary with the approval of the governor. The secretary also may appoint such other staff assistants and employees as are necessary to enable the secretary to carry out the duties of the office. Except as otherwise provided in this section, K.S.A. 75-2935 and 32-801, and amendments thereto, such staff assistants and employees shall be within the classified service under the Kansas civil service act.

(b) The assistant secretaries and such other staff assistants and employees shall have such powers, duties and functions as are assigned to them by the secretary or are prescribed by law. The assistant secretaries, staff assistants and employees shall act for and exercise the powers of the secretary to the extent authority to do so is delegated by the secretary.

(c) The assistant secretary for administration shall maintain an office in Shawnee county, Kansas. The assistant secretary for ~~wildlife, fisheries and boating operations~~ shall maintain an office in Pratt county, Kansas. ~~The assistant secretary for parks and tourism shall maintain an office in Shawnee county, Kansas.~~ The secretary may maintain offices and facilities to carry out the functions of the department in other locations in this state.

(d) The secretary shall supervise the wildtrust program which shall be responsible for the receipt and expenditure of moneys through gifts and donations.

Sec. 26. K.S.A. 32-805 is hereby amended to read as follows: 32-805.

(a) There is hereby created within and as a part of the department the Kansas wildlife, ~~and parks and tourism~~ commission ~~which, and such commission~~ shall be composed of seven members. The governor shall appoint residents of this state to be members of the commission. One member of the commission shall be chosen from each fish and wildlife administration region as established by the department. In the appointment of members of the commission, the governor shall give consideration to the appointment of licensed hunters, fishermen and furharvesters, park users and to nonconsumptive users of wildlife and park resources. No more than a majority of the members shall be of the same political party. Each member of the commission shall hold office for a term of four years and until a successor is appointed and qualified, ~~except that in appointing the original commission members, the governor shall designate one member for a term ending July 1, 1988, one member for a term ending July 1, 1989, and two members for terms ending July 1, 1990.~~ The governor shall fill any vacancy on the commission prior to the expiration of a term by appointment for the unexpired term.

(b) Each member of the commission shall take and subscribe an oath or affirmation as required by law before taking office.

(c) The governor may remove a commissioner after opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act. If the commissioner is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner and the governor's findings thereon, together with a complete record of the proceedings.

(d) The commission shall have such powers, duties and functions as prescribed by law. Other than rules and regulations pertaining to personnel matters of the department, the secretary shall submit to the commission all proposed rules and regulations. The commission shall either approve, modify and approve, or reject such proposed rules and regulations. The secretary shall adopt such rules and regulations so approved or so modified and approved. Fees established for licenses, permits, stamps and other issues of the department shall be subject to the approval of the

commission. It also shall be the duty of the commission to serve in an advisory capacity to the governor and the secretary in the formulation of policies and plans relating to the department.

(e) The governor shall designate one commission member to serve as chairperson of the commission. Members of the commission attending meetings of the commission, or attending a subcommittee meeting thereof authorized by the commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. A majority of the members of the commission shall constitute a quorum for the transaction of business. Meetings may be called by the chairperson and shall be called on the request of a majority of the members of the commission.

Sec. 27. K.S.A. 32-806 is hereby amended to read as follows: 32-806. The secretary of wildlife, ~~and parks and tourism~~ may organize the Kansas department of wildlife, ~~and parks and tourism~~ in the manner the secretary deems most efficient, so long as the same is not in conflict with the provisions of this order or with the provisions of law, and the secretary may establish policies governing the transaction of business of the department and the administration of the department. The secretary shall cause any compensation received by the Kansas department of wildlife, ~~and parks and tourism~~, whether monetary, in-kind or otherwise, from leases of real property under the control and jurisdiction of the secretary to be accounted for and reflected in the budget of the Kansas department of wildlife, ~~and parks and tourism~~.

Sec. 28. K.S.A. 32-807 is hereby amended to read as follows: 32-807. The secretary of *wildlife and parks* shall have the power to:

(a) Adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement, administer and enforce the provisions of the wildlife, ~~and parks and tourism~~ laws of this state;

(b) enter into such contracts and agreements as necessary or incidental to the performance of the powers and duties of the secretary;

(c) employ or contract for, and fix the compensation of, consulting engineers, attorneys, accountants and construction and financial experts, all of whom shall be in the unclassified service under the Kansas civil service act;

(d) designate an official seal and alter it at the secretary's pleasure;

(e) sue, be sued, plead and be impleaded in the name of the department;

(f) purchase, lease, accept gifts or grants of or otherwise acquire in the name of the state such water, water rights, easements, facilities, equipment, moneys and other real and personal property, and interests therein, including any property abandoned on department lands and

waters, and maintain, improve, extend, consolidate, exchange and dispose of such property, as the secretary deems appropriate to carry out the intent and purposes of the wildlife, ~~and parks and tourism~~ laws of this state;

(g) acquire, establish, develop, construct, maintain and improve state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, physical structures, dams, lakes, reservoirs, embankments for impounding water, roads, landscaping, habitats, vegetation and other property, improvements and facilities for the purposes of wildlife management, preservation of natural areas and historic sites and providing recreational or cultural opportunities and facilities to the public and for such other purposes as suitable to carry out the intent and purposes of wildlife, ~~and parks and tourism~~ laws of this state;

(h) operate and regulate the use of state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, historic sites and other lands, waters and facilities under the jurisdiction and control of the secretary, so as to promote the public health, safety and decency and the purposes for which such lands, waters and facilities are maintained and operated and to protect and safeguard such lands, waters and facilities, including but not limited to:

(1) Regulating the demeanor, actions and activities of persons using or within such lands, waters and facilities;

(2) providing for the inspection of boats, the issuance of permits for operation of watercraft of all kinds and the charging and collection of fees for the inspection and operation of such craft;

(3) prescribing the type, style, location and equipment of all wharves, docks, anchorages, pavilions, restaurants and other structures or buildings ~~which~~ *that* may be constructed along the shores or upon the water of any body of water or land controlled by the department, and providing for the licensing, inspection and supervision of such structures or buildings;

(4) granting and imposing charges for permits and for all commercial uses or purposes for which any of the properties of the department may be used;

(5) charging fees to use special facilities provided for the public or giving written authorization to lessees of the department to charge such fees; and

(6) operating, renting or leasing any such lands, waters and facilities which in the judgment of the secretary are necessary or desirable for the use and pleasure of visitors or for management of such lands, waters and facilities and fixing and collecting reasonable fees, tolls, rentals and charges for the use or operation thereof. All contracts or leases for the exercise of any concession shall be entered into only upon the basis of sealed proposals ~~which~~ *that* shall be made and let by the secretary except that:

(A) Where a concessionaire has an existing lease with the secretary or any agency of the federal government ~~which~~ *that* the secretary desires to renew, renegotiate or acquire and sublease, such lease or sublease may be negotiated directly in accordance with rules and regulations of the secretary and without compliance with the requirements ~~hereinbefore specified of this paragraph~~;

(B) any such contract or lease for a term of 30 days or less may be made by the secretary directly in accordance with rules and regulations of the secretary; and

(C) the secretary shall have authority to reject any or all proposals;

(i) have exclusive administrative control over state parks, state lakes, recreational areas, wildlife areas and sanctuaries, fish hatcheries, natural areas and other lands, waters and facilities under the jurisdiction of the secretary;

(j) provide for protection against fire and storm damage to the lands, waters and facilities under the jurisdiction of the secretary;

(k) contract with the federal government pursuant to public law 89-72 in order to acquire land by purchase, lease, agreement or otherwise on El Dorado and Hillsdale reservoir project lands;

(l) apply for, receive and accept from any federal agency any federal grants available for the purposes of the wildlife, *and* parks ~~and tourism~~ laws of this state;

(m) have authority, control and jurisdiction over all matters relating to the development and conservation of wildlife and recreation resources of the state insofar as it pertains to forests, woodlands, public lands, submarginal lands, prevention of soil erosion, habitats and the control and utilization of waters, including all lakes, streams, reservoirs and dams, except that this subsection shall not prohibit any political subdivision of the state or private corporation from having full control of any lake now constructed and owned by it;

(n) conduct research in matters relating to the purposes of the wildlife, *and* parks ~~and tourism~~ laws of this state and disseminate information relating thereto for the public use and benefit;

(o) publicize to the citizens of this and other states the natural resources and facilities existing in Kansas and encourage people to visit Kansas by disseminating available information as to the natural resources and recreational advantages of the state;

(p) develop public recreation as related to natural resources and implement a state recreational plan ~~which~~ *that* may include, but ~~shall~~ not be limited to, the general location, character and extent of state lands, waters and facilities for public recreational purposes and methods for better use of lands, waters and facilities ~~which~~ are within the scope of the plan or the purpose of the wildlife, *and* parks ~~and tourism~~ laws of this state but, be-

fore implementation of such plan or any part thereof, the secretary shall submit it to any state agency affected thereby for such agency's advice and recommendations;

(q) provide for the preservation, protection, introduction, distribution, restocking and restoration of wildlife, and the public use thereof, in this state, including, but not limited to:

(1) Establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, open seasons when wildlife may be taken or transported in the state of Kansas, or in any part or area of the state designated by counties, major streams, federal impoundments or federal, state or county highways, or by other recognizable boundaries, ~~which~~. *Such* open seasons may be established for a specified time in one year only or for a specified time in an indefinite number of years and ~~which~~ *that* open seasons on migratory birds shall not extend beyond or exceed those in effect under federal laws and regulations;

(2) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the number of wildlife ~~which~~ *that* may be taken by a person, as the legal limit for any one calendar day and for the open season, ~~which~~. *The* limit on migratory fowl shall not extend beyond or exceed those limits in effect under federal laws and regulations;

(3) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the legal size limits of fish or frogs ~~which~~ *that* may be taken;

(4) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the conditions, procedure and rules under which any person may sell, purchase, buy, deal or trade in wildlife in the state of Kansas; and

(5) capturing, propagating, transporting, selling, exchanging, giving or distributing any species of wildlife, by any means or manner, needed for stocking or restocking any lands or waters in this state, except that the power to capture any species of wildlife for any purpose shall not apply to private property except by permission of the owners of the property or in the case of an emergency threatening the public health or welfare;

(r) establish, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the period of time that a license, permit, stamp or other issue of the department shall be in effect, unless such period is otherwise established by law, and provisions for acceptance of any issue of the department before its effective date as a valid issue if the secretary determines such acceptance best serves the public good; and

(s) do such other acts and things as necessary and proper to carry out the intent and purpose of the wildlife, ~~and parks-and-tourism~~ laws of this

state and to better protect, conserve, control, use, increase, develop and provide for the enjoyment of the natural resources of this state.

Sec. 29. K.S.A. 32-809 is hereby amended to read as follows: 32-809.

(a) Unless otherwise provided by law, all moneys received from agricultural production on state-owned property under the control and jurisdiction of the secretary of wildlife, ~~and parks and tourism~~ shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the state agricultural production fund, which is hereby created in the state treasury.

(b) The Kansas department of wildlife, ~~and parks and tourism~~ shall establish separate accounts of the state agricultural production fund for each state-owned property under the control and jurisdiction of the secretary of wildlife, ~~and parks and tourism~~. Such accounts shall be used for costs and expenses associated with management practices as determined for each property.

(c) All expenditures from the state agricultural production fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, ~~and parks and tourism~~.

Sec. 30. K.S.A. 32-832 is hereby amended to read as follows: 32-832.

(a) The Kansas department of wildlife, ~~and parks and tourism~~ is authorized to cooperate with and assist citizen-support organizations. For the purposes of this act, the term "citizen-support organization" means an organization ~~which that~~:

(1) Is a bona fide not-for-profit organization exempt from the payment of federal income taxes pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as in effect on January 1, 1990;

(2) does not engage in, and has no officer, director or member who engages in, any prohibited transaction, as defined by section 503(b) of the internal revenue code of 1986, as in effect on January 1, 1990;

(3) is domiciled in this state;

(4) the secretary determines its activities are conducted in a manner consistent with the goals, objectives and programs of the department and state policies as established by K.S.A. 32-702, and amendments thereto; and

(5) provide equal employment and membership opportunities to all persons regardless of race, color, national origin, religion, sex or age.

(b) The secretary may assist organizers of a citizen-support organization with its creation. The secretary may authorize any citizen-support organization to use under such conditions as the secretary may prescribe, department property, facilities or personnel to pursue the goals, objectives and purposes of the department.

(c) A citizen-support organization ~~which that~~ uses department property, facilities or personnel shall provide for and disclose to the secretary an annual audit of its financial records and accounts in such manner and at such times as may be required by the secretary.

(d) A citizen-support organization ~~which that~~ receives funding from the department shall not use such funding for purposes of lobbying as defined by K.S.A. 46-225, and amendments thereto.

Sec. 31. K.S.A. 32-833 is hereby amended to read as follows: 32-833.

(a) (1) Notwithstanding the provisions of K.S.A. 32-807(f), and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife, ~~and parks and tourism~~ shall not purchase any land unless *the secretary of wildlife and parks*:

(A) ~~The secretary of wildlife, parks and tourism~~ Has certified that the land proposed to be purchased is in compliance with the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, concerning control and management of noxious weeds after consultation with the county weed supervisor and has developed a written plan for controlling and managing noxious weeds on the land to be purchased;

(B) ~~the secretary of wildlife, parks and tourism~~ shall agree to make payment of moneys in lieu of taxes comparable to the ad valorem tax payments of surrounding lands for any land purchased ~~which that~~ is exempt from the payment of ad valorem taxes under the laws of the state of Kansas; and

(C) ~~the secretary of wildlife, parks and tourism~~ has developed a management plan for the property proposed to be purchased.

(2) In addition to the requirements prescribed by this section and otherwise by law, any proposed purchase of a tract or tracts of land ~~which that~~ are greater than 160 acres in the aggregate shall be subject to approval by act of the legislature, either as a provision in an appropriation act pertaining to the specific property to be purchased or by any other act of the legislature that approves the acquisition of the specific property proposed to be purchased, or by approval by the state finance council acting on this matter ~~which that~~ is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto.

(3) The provisions of this subsection shall not apply to any purchase of land by the secretary, ~~which that~~ is less than 640 acres in the aggregate and owned by a private individual, if the purchase price is an amount less than such land's appraised valuation.

(b) (1) Notwithstanding the provisions of K.S.A. 32-807(f), and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife, ~~and parks and tourism~~ shall adopt guidelines and

procedures prescribing public notice requirements that the secretary shall comply with before the selling of any land ~~which~~. *Such guidelines and procedures* shall include, but not be limited to, the following:

(A) A written notice shall be posted in a conspicuous location on such land stating the time and date of the sale, or the date after which the land will be offered for sale; and a name and telephone number of a person who may be contacted concerning the sale of such land;

(B) the secretary shall cause to be published in a newspaper of general circulation in the county the land is located once a week for three consecutive weeks, the secretary's intent to sell the land ~~which shall include~~ *that includes* a legal description of the land to be sold, the time and date of the sale or the date after which the land will be offered for sale, the general terms and conditions of such sale; and a name and telephone number of a person who may be contacted concerning the sale of such land; and

(C) the secretary shall publish in the Kansas register public notice of the secretary's intent to sell the land which shall include a legal description of the land to be sold, the time and date of the sale or the date after which the land will be offered for sale, the place of the sale, the general terms and conditions of such sale, and a name and telephone number of a person who may be contacted concerning the sale of such land.

(2) The secretary shall have the land appraised by three disinterested persons. In no case shall such land be sold for less than the average of its appraised value as determined by such disinterested persons.

(3) The secretary shall list such land with a real estate agent who is licensed by the Kansas real estate commission as a salesperson under the real estate brokers' and salespersons' license act, ~~and who~~. *Such real estate agent* shall publicly advertise that such land is for sale.

(4) Prior to closing the transaction on a contract for the sale of such land, the secretary shall cause a survey to be conducted by a licensed land surveyor. Such survey shall establish the precise legal description of such land and shall be a condition precedent to the final closing on such sale.

(c) Any disposition of land by the secretary shall be in the best interest of the state.

(d) The provisions of ~~paragraph subsection~~ *subsection* (a)(2) shall not apply to lands of less than 640 acres purchased with natural resource damage and restoration funds in the southeast Kansas counties of Cherokee, Crawford, Labette and Neosho.

Sec. 32. K.S.A. 32-834 is hereby amended to read as follows: 32-834. (a) During the fiscal year ending June 30, 2014, in accordance with the provisions of K.S.A. 32-833, and amendments thereto, the secretary of wildlife, ~~and parks and tourism~~ is hereby authorized to acquire by purchase the following tracts of land located in Jefferson county, Kansas, more particularly described as:

Tract 1: All of the North half of the South East Quarter, Section 10, Township 11 South, Range 19 East lying East of the center of County Road, EXCEPT a tract described as follows: Beginning at a point on the South line of the North half of the South East Quarter, 935.65 feet more or less West of the South East corner of the North half of the South East Quarter, thence West along said South line 556.76 feet to center of County Road, thence North 12 degrees 02 minutes 23 seconds West 800 feet, thence North 90 degrees 00 minutes 00 seconds East 556.76 feet, thence South 12 degrees 02 minutes 23 seconds East 800 feet more or less to the point of beginning, containing 39.73 acres more or less and subject to any easement of record.

Tract 2: The Northeast Quarter (NE 1/4) of Section Ten (10), Township Eleven South (T11S), Range Nineteen East (R19E) of the 6th P.M., in Jefferson County, Kansas.

Tract 3: All that part of the South 1/2 of the Southeast 1/4 of Section 10, Township 11 South, Range 19 East of the 6th P.M., Jefferson County, Kansas, lying East of the County Road. Contains 50 acres, more or less.

Tract 4: A tract beginning at the Northeast corner of the South Half of the South Half of the Southwest Quarter (S 1/2 S 1/2 SW 1/4) of Section Fifteen (15) Township Eleven (11) South, Range Nineteen (19) East of the 6th P.M., in Jefferson County, Kansas; thence South 00°23'11" East a distance of 300.00 feet, said point being on the East line of the Southwest Quarter (SW 1/4) of Section 15; thence South 50°06'43" West a distance of 1353.10 feet; thence North 39°46'11" West a distance of 161.21 feet; thence North 28 11' 59" East a distance of 1190.78 feet, said point being on the North line of the South Half (S 1/2) of the South Half (S 1/2) of the Southwest Quarter (SW 1/4) of Section 15; thence South 89 15'55" East a distance of 576.56 feet to the Point of Beginning, said tract also being a part of the North Half (N 1/2) of the Northwest Quarter (NW 1/4) of Section 22, Township 11 South, Range 19 East of the 6th P.M., Jefferson County, Kansas; also known as Tract 5 of Certificate of Survey re-plat in Jefferson County, Kansas, by Fred G. Roger., LS-64, on March 24, 1978, filed March 27, 1978, and recorded in Plat Book 2, Page 588, a replat of Plat Book 2, Page 575.

Tract 5: The South 120 acres of the Southeast Quarter (SE 1/4) of Section Fifteen (15), Township Eleven (11) South, Range Nineteen (19) East of the 6th P.M., Jefferson County, Kansas, according to U.S. Government Survey thereof.

Tract 6: The South 60 acres of the Northeast Quarter (NE 1/4), AND the North 40 acres of the Southeast Quarter (SE 1/4), all in Section Fifteen (15), Township Eleven (11) South, Range Nineteen (19) East of the 6th P.M., Jefferson County, Kansas; EXCEPT all that part of the North 40 acres of the Southeast Quarter (SE 1/4) of said Section Fifteen (15), lying

West of the public highway, and EXCEPT all that part of the South 60 acres of the Northeast Quarter (NE ¼) of said Section Fifteen (15), lying West of the public highway.

Tract 7: The South Half (S ½) of the Southwest Quarter of Section Fourteen (14); AND a tract beginning at the Southwest corner of the North Half (N ½) of the Southwest Quarter (SW ¼) of Section Fourteen (14); thence running North 12 rods; thence running East 57 rods; thence running South 12 rods; thence running West 57 rods to the Point of Beginning, all in Township Eleven (11) South, Range Nineteen (19) East of the 6th P.M., Jefferson County, Kansas.

Tract 8: Beginning at the Southeast corner of the North Half of the Northwest Quarter (N ½ NW ¼) of Section Twenty-two (22), Township Eleven (11) South, Range Nineteen (19) East of the 6th P.M., Jefferson County, Kansas; thence North 89 degrees 35 minutes 05 seconds West a distance of 685.11 feet, said point being on the South line of the North Half of the Northwest Quarter of Section 22; thence North 00 degrees 24 minutes 55 seconds East a distance of 361.05 feet; thence North 32 degrees 19 minutes 25 seconds West a distance of 227.14 feet; thence North 49 degrees 07 minutes 07 seconds West a distance of 176.82 feet; thence North 76 degrees 48 minutes 44 seconds East a distance of 959.44 feet, said point being on the East line of the Northwest Quarter of Section 22; thence South 00 degrees 13 minutes 24 seconds West a distance of 892.59 feet to the point of beginning; also known as Tract 7 of Certificate of Survey re-Plat In Jefferson County, Kansas, prepared by Fred G. Rogers, LS-64, on March 24, 1978, filed March 27, 1978 and recorded in Plat Book 2, Page 588.

Tract 9: The Northwest Quarter (NW ¼) of Section 15; and the North 100 acres of the Northeast Quarter (NE ¼) of Section 15, all in Township 11 South, Range 19 East in Jefferson County, Kansas; and All that part of the North 40 acres of the Southeast Quarter (SE ¼) of Section 15, Township 11 South, Range 19 East, lying West of the public highway, in Jefferson County, Kansas; and All that part of the South 60 acres of the Northeast Quarter (NE ¼) of Section 15, Township 11 South, Range 19 East, lying West of the public highway, in Jefferson County, Kansas.

(b) Prior to payment for the purchase authorized by this section, the secretary of wildlife, *and* parks ~~and tourism~~ shall determine that the requirements prescribed by K.S.A. 32-833, and amendments thereto, have been met.

(c) The provisions of K.S.A. 75-3043a and 75-3739, and amendments thereto, shall not apply to the acquisition authorized by this section or any contracts required therefor.

(d) In the event that the secretary of wildlife, *and* parks ~~and tourism~~ determines that the legal description of the parcel described by this

section is incorrect, the secretary of wildlife, *and parks and tourism* may purchase the property utilizing the correct legal description.

Sec. 33. K.S.A. 32-835 is hereby amended to read as follows: 32-835.

(a) Subject to the provisions of K.S.A. 32-833, and amendments thereto, the secretary of wildlife, *and parks and tourism* is hereby authorized to acquire by purchase the following tract of land located in Cherokee county, Kansas, more particularly described as:

The Southeast Quarter (SE $\frac{1}{4}$), the Northwest Quarter (NW $\frac{1}{4}$), and the West Half of the Northeast Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$), Section 29, Township 34 South, Range 22 East, in Cherokee County, Kansas, containing 397 acres more or less.

(b) Prior to payment for the purchase authorized by this section, the secretary of wildlife, *and parks and tourism* shall determine that the requirements prescribed by K.S.A. 32-833, and amendments thereto, have been met.

(c) The provisions of K.S.A. 75-3043a and 75-3739, and amendments thereto, shall not apply to the acquisition authorized by this section or any contracts required therefor.

(d) In the event that the secretary of wildlife, *and parks and tourism* determines that the legal description of the parcel described by this section is incorrect, the secretary of wildlife, *and parks and tourism* may purchase the property utilizing the correct legal description.

Sec. 34. K.S.A. 32-836 is hereby amended to read as follows: 32-836.

(a) Subject to the provisions of K.S.A. 32-833, and amendments thereto, the secretary of wildlife, *and parks and tourism* is hereby authorized to acquire by purchase the following tract of land located in Pottawatomie county, Kansas, more particularly described as:

The Southeast Quarter (SE $\frac{1}{4}$) of Section 12, Township 6 South, Range 7 East, and the Northeast Quarter (NE $\frac{1}{4}$) and the North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 13, Township 6 South, Range 7 East, and part of the Northeast Quarter (NE $\frac{1}{4}$) and Southeast Quarter (SE $\frac{1}{4}$) of Section 17, Township 6 South, Range 7 East, and part of the Northwest Quarter (NW $\frac{1}{4}$) and the North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 18, Township 6 South, Range 8 East in Pottawatomie County, Kansas, containing 484 acres more or less.

(b) Prior to payment for the purchase authorized by this section, the secretary of wildlife, *and parks and tourism* shall determine that the requirements prescribed by K.S.A. 32-833, and amendments thereto, have been met.

(c) The provisions of K.S.A. 75-3043a and 75-3739, and amendments thereto, shall not apply to the acquisition authorized by this section or any contracts required therefor.

(d) In the event that the secretary of wildlife, *and parks and tourism*

~~is~~ determines that the legal description of the parcel described by this section is incorrect, the secretary of wildlife, *and* parks ~~and tourism~~ may purchase the property utilizing the correct legal description.

Sec. 35. K.S.A. 32-837 is hereby amended to read as follows: 32-837.
(a) The following parks have been designated as a part of the state park system:

- (1) Kanopolis-Mushroom Rock state park in Ellsworth county;
- (2) Cross Timbers state park at Toronto Lake in Woodson county;
- (3) Fall River state park in Greenwood county;
- (4) Cedar Bluff state park in Trego county;
- (5) Tuttle Creek state park in Pottawatomie and Riley counties;
- (6) Pomona state park in Osage county;
- (7) Cheney state park in Kingman and Reno counties;
- (8) Lake Crawford state park in Crawford county;
- (9) Lovewell state park in Jewell county;
- (10) Lake Meade state park in Meade county;
- (11) Prairie Dog state park in Norton county;
- (12) Webster state park in Rooks county;
- (13) Wilson state park in Russell county;
- (14) Milford state park in Geary county;
- (15) Historic Lake Scott state park in Scott county;
- (16) Elk City state park in Montgomery county;
- (17) Perry state park in Jefferson county;
- (18) Glen Elder state park in Mitchell county;
- (19) El Dorado state park in Butler county;
- (20) Eisenhower state park in Osage county;
- (21) Clinton state park in Douglas and Shawnee counties;
- (22) Sand Hills state park in Reno county;
- (23) Hillsdale state park in Miami county;
- (24) Kaw River state park in Shawnee county;
- (25) Prairie Spirit rail trail state park in Franklin, Anderson and Allen counties;
- (26) Flint Hills trail state park in Miami, Franklin, Osage, Lyon, Morris and Dickinson counties; and
- (27) Little Jerusalem Badlands state park in Logan county.

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

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

(d) The requirements found in K.S.A. 65-171d(j)(2), and amendments thereto, shall not apply to subsection (a)(25) or (a)(26).

(e) For any state park listed in subsection (a) containing a recreational trail created pursuant to 16 U.S.C. § 1247(d), the Kansas department of wildlife, ~~and parks and tourism~~ shall carry out the duties listed in K.S.A. 58-3212(a)(1) through (a)(11), and amendments thereto.

Sec. 36. K.S.A. 32-839 is hereby amended to read as follows: 32-839. The Cane creek area within stage 1 of the Milford lake wetlands wildlife habitat restoration project, in Clay county, near the city of Wakefield, is hereby designated as the Steve Lloyd wetlands. The secretary of wildlife, ~~and parks and tourism~~ shall cause placement of suitable signs and an observation deck to indicate the area is the Steve Lloyd wetlands. The secretary may accept and administer gifts and donations for the purpose of obtaining and installing such signs and observation deck.

Sec. 37. K.S.A. 32-840 is hereby amended to read as follows: 32-840. (a) The secretary, in the name of the state of Kansas, may exercise the right of eminent domain in accordance with the eminent domain procedure act, K.S.A. 26-501 et seq., and amendments thereto, for the purpose of acquiring lands, water and water rights necessary to:

(1) Carry out the provisions of the wildlife, ~~and parks and tourism~~ laws of this state and the purposes for which the department is created; or

(2) protect, add to and improve state parks, state lakes, recreational areas, wildlife areas and sanctuaries, natural areas, fish hatcheries and other lands, waters and facilities provided for by K.S.A. 32-807, and amendments thereto.

(b) The taking, using and appropriating of property as authorized by subsection (a)(2) for the purposes of protecting lands, waters and facilities and their environs and preserving the view, appearance, light, air, health and usefulness thereof by reselling such property with such restrictions in the deeds of resale as will protect the property taken for such purposes is hereby declared to be taking, using and appropriating of such property for public use. The proceeds arising from the resale of any property so taken shall be used by the secretary for the purpose of improving lands, waters and facilities under the jurisdiction and control of the secretary.

(c) Upon request of the secretary, the attorney general shall proceed by proper action to acquire by condemnation all lands, or rights therein or thereon, and all water or water rights required by the department pursuant to this section.

Sec. 38. K.S.A. 32-844 is hereby amended to read as follows: 32-844. (a) The secretary of wildlife, ~~and parks and tourism~~ shall submit a report to the legislature at the beginning of each regular session detailing all real estate transactions ~~which~~ *that* are proposed or agreements ~~which~~ *that* have been entered into between the Kansas department of wildlife, ~~and parks and tourism~~ and any other party, other than another state agency,

~~which~~ *that* relate to any acquisition or disposition of any real estate, or interest in real estate, by the Kansas department of wildlife, ~~and parks and tourism~~ or any such contracting party.

(b) (1) With regard to executed agreements, the report required by this section shall include for each such acquisition to be reported:

- (A) The legal description of the real estate or interest acquired;
- (B) the purchase price;
- (C) if appropriation of state moneys is required for the acquisition, the appraised value of the real estate or interest acquired; and
- (D) if the real estate or interest therein will remain subject to ad valorem property taxation.

(2) With regard to proposed real estate transactions, the report required by this section shall include for each such proposed transaction to be reported:

- (A) The legal description of the real estate or interest acquired;
- (B) if appropriation of state moneys is required for the proposed transaction, the appraised value of the real estate or interest proposed to be acquired; and
- (C) if the real estate or interest therein will remain subject to ad valorem property taxation.

(c) The reporting requirements of this section shall not apply to real estate or interest therein acquired under the wildtrust program until such time as the deeds are filed for record.

(d) Agreements ~~which~~ *that* have been entered into and are required to be reported pursuant to this section shall be published in the Kansas register within 30 days of the execution of any such agreement.

Sec. 39. K.S.A. 32-845 is hereby amended to read as follows: 32-845. (a) Neither the Kansas department of wildlife, ~~and parks and tourism~~, nor any officer or employee of the state on behalf of the department, shall enter into any contract for the acquisition or lease of real estate with the corps of engineers or the bureau of reclamation ~~which~~ *that* will require any future appropriation unless the contract is first approved by the legislature as provided by subsection (b).

(b) A contract subject to the provisions of subsection (a) shall be approved by the legislature by:

- (1) Law or concurrent resolution; or
- (2) approval of the contract by the legislative coordinating council.
- (c) Any contract entered into without approval of the legislature when required by this section is null and void.

(d) The provisions of this section shall not apply to contracts requiring future appropriations of only:

- (1) Moneys that are received from the corps of engineers or the bureau of reclamation or from a private source; or

(2) moneys to be expended in response to a major disaster declared by the president of the United States. In addition, the provisions of this section shall not apply to lease renewals with the corps of engineers or bureau of reclamation, except the department shall notify the chairperson, vice-chairperson and ranking minority member of both the house and senate energy and natural resources committees on or before the first day of a legislative session of any such lease renewals pending for that calendar year.

(e) As used in this section, “future appropriation” means an appropriation for a fiscal year commencing more than one year after the date the contract is entered.

Sec. 40. K.S.A. 32-846 is hereby amended to read as follows: 32-846. (a) Pursuant to K.S.A. 32-845, and amendments thereto, the Kansas department of wildlife, ~~and parks and tourism~~ is hereby authorized to enter into a project cooperative agreement and related lease with the ~~U.S.~~ *United States* department of the army to modify and restore approximately 2,550 acres of permanent and seasonal wetland habitat located on the Republican River floodplain within the flood control pool of Milford Lake subject to the following: The proposed project shall be developed in the following three stages and moneys to pay the nonfederal share of project costs for each stage shall be secured before commencement of such stage:

(1) Stage 1, in the areas of Lower Refuge, Cane Creek, Mall Creek and Smith Bottoms, totaling approximately 1,030 acres;

(2) stage 2, in the areas of Quimby Creek, Smith Bottoms addition, Beichter Bottoms, East Broughton 1 and 3 and West Broughton 1 and 2, totaling approximately 895 acres; and

(3) stage 3, in the areas of West Broughton 3 and 4, Martin, East Broughton 2 and 4 and Sugar Bowl, totaling approximately 415 acres.

(b) The Kansas department of wildlife, ~~and parks and tourism~~ is hereby authorized to assume costs associated with the operation, maintenance, repair, replacement and rehabilitation of the area in each stage of the Milford Lake wetlands wildlife habitat restoration project after completion of such stage by the ~~U.S.~~ *United States* department of the army. Such costs shall be paid from wildlife-related fee funds of the department and from any nonstate moneys available for that purpose.

Sec. 41. K.S.A. 32-869 is hereby amended to read as follows: 32-869. The Kansas development finance authority is hereby authorized to issue, pursuant to K.S.A. 32-857 through 32-864, and amendments thereto, revenue bonds in an amount or amounts not to exceed \$30,000,000 for any one resort. The proceeds from the sale of such bonds shall be used, together with any other funds available for such purpose, to construct and equip a resort on state-owned or leased property under the jurisdiction of the Kansas department of wildlife, ~~and parks and tourism~~. The bonds, and

interest thereon, issued pursuant to this section shall be payable by the private sector developer from revenues ~~to include~~ *including*, but not limited to, resort charges, rentals and fees, such payment to be in lieu of lease payments and shall never be deemed to be an obligation or indebtedness of the state within the meaning of article 11, section 6 of the *constitution of the state of Kansas-constitution*.

Sec. 42. K.S.A. 32-873 is hereby amended to read as follows: 32-873. Notwithstanding the provisions of K.S.A. 32-867 through 32-872, the selection of any site by the secretary of wildlife, *and parks and tourism* and secretary of commerce pursuant to K.S.A. 32-874d, and amendments thereto, shall not become final, nor shall any revenue bonds be issued for the resort development, until the site so selected and the amount of the bonds proposed to be issued have been approved by the legislature or the state finance council acting on this matter ~~which~~ *that* is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in ~~subsection (e) of K.S.A. 75-3711c(c)~~, and amendments thereto.

Sec. 43. K.S.A. 32-874 is hereby amended to read as follows: 32-874. (a) The secretary of commerce and the secretary of wildlife, *and parks and tourism*, ~~together~~, shall direct and implement a feasibility study regarding the potential of developing lake resorts in Kansas. The study shall consider ready access from nearby interstate and interstate connected controlled access highways, public transportation systems, facilities and any other factors that may affect tourism to a given site. The study shall consider only sites at existing state parks or lakes.

(b) The feasibility study shall be completed by January 1, 1998, with a joint report on the study's results and recommendations derived therefrom to be presented to the legislature, house committee on tourism, senate committee on transportation and tourism and to the governor during the 1998 legislative session.

Sec. 44. K.S.A. 32-874a is hereby amended to read as follows: 32-874a. The feasibility study required under K.S.A. 32-874, and amendments thereto, being completed, the secretary of commerce, the secretary of wildlife, *and parks and tourism* and the secretary of transportation will develop an incentive plan outlining the state of Kansas' commitment toward building a lake resort ~~which~~ *that* shall include, but not limited to, infrastructure improvements, utility improvements and tax incentives to be offered for sites at, including, but not limited to, the six state parks selected in the feasibility study reported to the 1998 legislature: Cheney, Clinton, El Dorado, Hillsdale, Perry and Milford.

Sec. 45. K.S.A. 32-874b is hereby amended to read as follows: 32-874b. Once the state incentive packages are agreed upon, the secretary of wildlife, *and parks and tourism*, under K.S.A. 32-807, 32-830 and 32-831,

and amendments thereto, and the secretary of commerce under K.S.A. 74-5005, and amendments thereto, will take the incentive package for each lake resort site to communities adjacent to each state park, revealing what the state is willing to commit to the development of a lake resort near each lake resort community and negotiate and determine what each community is willing to offer as an incentive to have the lake resort develop near its community.

Sec. 46. K.S.A. 32-874c is hereby amended to read as follows: 32-874c. The secretary of wildlife, ~~and parks and tourism~~, if necessary, shall negotiate and contract with the United States corps of engineers, bureau of reclamation, or other federal agency under K.S.A. 32-824, 32-825, 32-826 and 32-845, and amendments thereto, regarding a selected site and seek the necessary legislative approval under K.S.A. 32-843, and amendments thereto.

Sec. 47. K.S.A. 32-874d is hereby amended to read as follows: 32-874d. (a) When the incentive packages for each of the lake resorts is determined, the secretary of wildlife, ~~and parks and tourism~~ and the secretary of commerce shall develop requests for proposals ~~which~~ *that* include the incentive packages for each site. The proposals received from developers under ~~subsection (h)(6) of K.S.A. 32-807(h)(6)~~, and amendments thereto, shall be sealed.

(b) (1) The Kansas department of wildlife, ~~and parks and tourism~~ and the department of commerce shall advertise for proposal plans with bids for development of sites selected under K.S.A. 32-867, 32-868, 32-871 and 32-872, and amendments thereto. Advertisements for proposals with bids shall be published in the Kansas register and once each week for two consecutive weeks in a newspaper having general circulation in the community at least 60 days before the time for receiving the proposals with bids. The advertisement shall also be posted on readily accessible bulletin boards in all offices of the two departments and on the information network of Kansas. The advertisement shall identify the area to be developed, the purpose of the development and shall state that such further information as is available may be obtained from either departments' office in Topeka.

(2) The two secretaries shall consider all proposals with bids submitted, the financial and legal ability of the private sector developers making such proposals with bids to carry them out and may negotiate with any private sector developer for a proposal with bid. The secretaries may accept such proposal with bid as it deems to be in the public interest and in furtherance of the purposes of this act.

(c) Once proposals are received from developers wishing to contract for building the resort, the secretary of wildlife, ~~and parks and tourism~~ utilizing powers and authority granted under K.S.A. 32-807, 32-862, 32-

863 and 32-867 through 32-872, and amendments thereto, and the secretary of commerce under K.S.A. 74-5005, and amendments thereto, shall select, negotiate and contract for the construction of a lake resort ~~which~~ *that* shall be operated as a private concession and developed with private funding to include, but not limited to, the issuance of revenue bonds under K.S.A. 32-857 through 32-864, and amendments thereto.

(d) The secretary of wildlife, ~~and parks and tourism~~ and the secretary of commerce may engage a private consultant to assist in the development of a contract for the selected site. Consistent with the powers and authority granted to the secretary of wildlife, ~~and parks and tourism~~, the secretary may waive any relevant park fees, obtain revenue from the resort and resort facilities and include penalty provisions in the contract regarding nonperformance by the operator and developer of the resort.

(e) The secretary of wildlife, ~~and parks and tourism~~ and the secretary of commerce shall not seek approval under K.S.A. 32-873, and amendments thereto, until the requirements of subsections (a) through (d) are satisfied.

Sec. 48. K.S.A. 32-874e is hereby amended to read as follows: 32-874e. The secretary of wildlife, ~~and parks and tourism~~ and the secretary of commerce shall present a joint report concerning negotiations, site selection, and status of the resort to the legislature, house committee on tourism, senate committee on transportation and tourism and to the governor during the 1999 legislative session.

Sec. 49. K.S.A. 32-886 is hereby amended to read as follows: 32-886. (a) Contingent upon a favorable response from federal agencies regarding development of shared resources, the secretary of wildlife, ~~and parks and tourism~~ shall identify and select sites suitable for the development of commercial, family oriented lodging areas at the following state parks: Clinton, Hillsdale, Kanopolis, El Dorado, Cheney, Wilson, Milford, Tuttle Creek, Pomona and such other state parks as the secretary deems appropriate.

(b) Such identification and selection of the sites shall take into consideration the mission of the facility, the environmental considerations and the availability of needed utilities.

(c) Family oriented lodging shall not include the development of lake resorts.

Sec. 50. K.S.A. 32-887 is hereby amended to read as follows: 32-887. The secretary of wildlife, ~~and parks and tourism~~ is then authorized to negotiate for a long-term lease with a private sector developer for improvement and development of any selected state park site. All such leases shall be on such terms as the secretary prescribes and adhere to the purposes and considerations of K.S.A. 32-886, and amendments thereto.

Sec. 51. K.S.A. 32-888 is hereby amended to read as follows: 32-888. (a) The Kansas department of wildlife, ~~and parks and tourism~~ shall advertise for proposal plans with bids for development of sites selected under K.S.A. 32-886, and amendments thereto. Advertisements for proposals with bids shall be published once each week for two consecutive weeks in a newspaper having general circulation in the community at least 60 days before the time for receiving the proposals with bids. The advertisement shall also be posted on readily accessible bulletin boards in all offices of the department. The advertisement shall identify the area to be developed, the purpose of the development and shall state that such further information as is available may be obtained from the department's office in Topeka.

(b) The secretary shall consider all proposals with bids submitted, the financial and legal ability of the private sector developers making such proposals with bids to carry them out and may negotiate with any private sector developer for a proposal with bid. The secretary may accept such proposal with bid as it deems to be in the public interest and in furtherance of the purposes of this act.

Sec. 52. K.S.A. 32-906 is hereby amended to read as follows: 32-906. (a) Except as otherwise provided by law or rules and regulations of the secretary of *wildlife and parks*, a valid Kansas fishing license is required to fish or to take any bullfrog in this state.

(b) The provisions of subsection (a) do not apply to fishing by:

(1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;

(2) a person who is less than 16 years of age;

(3) a resident of this state who is 75 years of age or more;

(4) a person fishing in a private water fishing impoundment unless waived pursuant to K.S.A. 32-975, and amendments thereto;

(5) a resident of an adult care home, as defined by K.S.A. 39-923, and amendments thereto, licensed by the secretary ~~of~~ *for aging and disability services*;

(6) a person on dates designated pursuant to subsection (f);

(7) a person fishing under a valid institutional group fishing license issued pursuant to subsection (g); or

(8) a participant in a fishing clinic sponsored or cosponsored by the department, during the period of time that the fishing clinic is being conducted.

(c) The fee for a fishing license shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid throughout the state.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid from the date of issuance and expires on December 31 following its issuance, except that the secretary may issue a:

(1) Permanent license pursuant to K.S.A. 32-929, and amendments thereto;

(2) lifetime license pursuant to K.S.A. 32-930, and amendments thereto;

(3) nonresident fishing license valid for a period of five days; and

(4) resident or nonresident fishing license valid for a period of 24 hours.

(f) The secretary may designate by resolution two days each calendar year during which persons may fish by legal means without having a valid fishing license.

(g) (1) The secretary shall issue an annual institutional group fishing license to each facility operating under the jurisdiction of or licensed by the secretary for aging and disability services and to any veterans administration medical center in the state of Kansas upon application by such facility or center to the secretary of wildlife, *and* parks ~~and tourism~~ for such license.

(2) All applications for facilities under the jurisdiction of the secretary for aging and disability services shall be made with the approval of the secretary for aging and disability services and shall provide such information as the secretary of wildlife, *and* parks ~~and tourism~~ requires. All applications for any veterans administration medical center shall be made with the approval of the director of such facility and shall provide such information as the secretary of wildlife, *and* parks ~~and tourism~~ requires. Persons who have been admitted to and are currently residing at the facility or center, not to exceed 20 at any one time, may fish under an institutional group fishing license within the state while on a group trip, group outing or other group activity which is supervised by the facility or center. Persons fishing under an institutional group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and to all rules and regulations relating to fishing.

(3) The staff personnel of the facility or center supervising the group trip, group outing or other group activity shall have in their possession the institutional license when engaged in supervising any activity requiring the license. Such staff personnel may assist group members in all aspects of their fishing activity.

(h) (1) The secretary may issue a special nonprofit group fishing license to any community, civic or charitable organization which is organized as a not-for-profit corporation, for use by such community, civic or charitable organization for the sole purpose of conducting group fishing activities for handicapped or developmentally disabled individuals. All applications for a

special nonprofit group fishing license shall be made to the secretary or the secretary's designee and shall provide such information as required by the secretary. ~~Handicapped or developmentally disabled individuals~~

(2) *Persons with a physical or developmental disability*, not to exceed 20 at any one time, may fish under a special nonprofit group fishing license while on a group trip, outing or activity which is supervised by the community, civic or charitable organization. Individuals fishing under a special nonprofit group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and rules and regulations relating to fishing.

(3) The staff personnel of the community, civic or charitable organization supervising the group trip, outing or activity shall have in their possession the special nonprofit group fishing license when engaged in supervising any activity requiring the special nonprofit group fishing license. Such staff personnel may assist group members in all aspects of their fishing activity.

(i) The provisions of ~~paragraph~~ subsection (b)(3) shall expire on June 30, 2020.

Sec. 53. K.S.A. 32-918 is hereby amended to read as follows: 32-918. (a) Upon request of the secretary for children and families, the secretary of wildlife, *and parks and tourism* shall not allow any license, permit, stamp, tag or other issue of the Kansas department of wildlife, *and parks and tourism* to be purchased by any applicant except as provided in this section. The secretary for children and families may make such a request by providing the secretary of wildlife, *and parks and tourism*, on a quarterly basis, a listing of names and other information sufficient to allow the secretary of wildlife, *and parks and tourism* to match applicants against the list with reasonable accuracy. The secretary for children and families may include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order in a title IV-D case or has failed, after appropriate notice, to comply with an outstanding warrant or subpoena directed to the individual in a title IV-D case. The secretary for children and families shall include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order, as reported to the secretary for children and families by the court trustee or has failed, after appropriate notice, to comply with a subpoena directed to the individual by the court trustee and as reported to the secretary for children and families by the court trustee.

(b) If any applicant for a license, permit, stamp, tag or other issue of the Kansas department of wildlife, *and parks and tourism* is not allowed to complete a purchase pursuant to this section, the vendor of the license, permit, stamp, tag or other issue of the Kansas department of wildlife, *and parks and tourism* shall immediately deliver to the applicant a written

notice, furnished by the state of Kansas, stating the basis for the action and how the applicant may dispute the action or request other relief. Such notice shall inform the applicant who owes arrearages in an IV-D case to contact the department for children and families and in a non-IV-D case to contact the court trustee.

(c) Immediately upon receiving a release executed by an authorized agent of the secretary for children and families or the court trustee, the secretary of wildlife, *and parks and tourism* may allow the applicant to purchase any license, permit, stamp, tag or other issue of the Kansas department of wildlife, *and parks and tourism*. The applicant shall have the burden of obtaining and delivering the release. The secretary for children and families or the court trustee may limit the duration of the release.

(d) Upon request, the secretary for children and families shall issue a release if, as appropriate:

(1) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

(2) an income withholding order in the case has been served upon the applicant's current employer or payor;

(3) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearages, together with receipt of the first minimum payment;

(4) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn; or

(5) the court trustee notifies the secretary for children and families that the applicant has paid the arrearages in full or has complied with the subpoena or the subpoena has been quashed or withdrawn.

(e) Individuals previously included in a quarterly listing may be omitted from any subsequent listing by the secretary for children and families. When a new listing takes effect, the secretary of wildlife, *and parks and tourism* may allow any individual not included in the new listing to purchase any license, permit, stamp, tag or other issue of the Kansas department of wildlife, *and parks and tourism*, whether or not the applicant had been included in a previous listing.

(f) Nothing in this section shall be construed to require or permit the secretary of wildlife, *and parks and tourism* to determine any issue related to a child support order or related to the title IV-D case, including questions of mistaken identity or the adequacy of any notice provided pursuant to this section. In a title IV-D case, the secretary for children and families shall provide an opportunity for fair hearing pursuant to K.S.A. 75-3306, and amendments thereto, to any person who has been denied any license, permit, stamp, tag or other issue of the Kansas department of wildlife, *and parks and tourism* pursuant to this section, provided that the person complies with the requirements of the secretary for children and

families for requesting such fair hearing. In a non-IV-D case, the applicant shall contact the court trustee.

(g) The term “title IV-D” ~~has the meaning ascribed thereto~~ *means the same as provided* in K.S.A. 32-930, and amendments thereto.

(h) The secretary for children and families and the secretary of wildlife, ~~and parks and tourism~~ may enter into an agreement for administering the provisions of this section.

(i) The secretary for children and families and the secretary of wildlife, ~~and parks and tourism~~ may each adopt rules and regulations necessary to carry out the provisions of this section.

(j) Upon receipt of such list, the secretary of wildlife, ~~and parks and tourism~~ shall send by first class mail, a letter to any new individual on the listing who has a current license, permit, stamp, tag or other issue of the Kansas department of wildlife, ~~and parks and tourism~~ informing such individual of the provisions of this section.

Sec. 54. K.S.A. 32-930 is hereby amended to read as follows: 32-930. (a) (1) Except as provided in subsection (c), the secretary of *wildlife and parks* or the secretary’s designee is authorized to issue to any Kansas resident a lifetime fishing, hunting or furharvester or combination hunting and fishing license upon proper application made therefor to the secretary or the secretary’s designee and payment of a license fee as follows:

~~(1)(A)~~ A total payment made at the time of purchase in the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto; or

~~(2)(B)~~ payment may be made over a two-year period in eight quarter-annual installments in the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(2) If payment is in installments, the license shall not be issued until the final installment has been paid. A person making installment payments shall not be required to obtain the appropriate annual license, and each installment payment shall be deemed to be such an annual license for a period of one year following the date of the last installment payment made. If an installment payment is not received within 30 days after it is due and owing, the secretary may consider the payments in default and may retain any payments previously received.

(3) Any lifetime license issued to a Kansas resident shall not be made invalid by reason of the holder thereof subsequently residing outside the state of Kansas. Any nonresident holder of a Kansas lifetime hunting or combination hunting and fishing license shall be eligible under the same conditions as a Kansas resident for a big game or wild turkey permit upon proper application to the secretary. Any nonresident holder of a lifetime fishing license issued before July 1, 1989, shall be eligible under the same conditions as a Kansas resident for a big game or wild turkey permit upon proper application to the secretary.

(b) ~~For the purposes of~~ *As used in* subsection (a), the term “resident” ~~shall have the meaning defined~~ *means the same as provided* in K.S.A. 32-701, and amendments thereto, except that a person shall have maintained that person’s place of permanent abode in this state for a period of not less than one year immediately preceding the person’s application for a lifetime fishing, hunting or furharvester or combination hunting and fishing license.

(c) (1) Upon request of the secretary for children and families, the secretary of wildlife, ~~and parks and tourism~~ shall not issue a lifetime fishing, hunting or furharvester or combination hunting and fishing license to an applicant except as provided in this subsection. The secretary for children and families may make such a request if, at the time of the request, the applicant:

(A) Owed arrearages under a support order in a title IV-D case being administered by the secretary for children and families;

(B) had outstanding a warrant or subpoena, directed to the applicant, in a title IV-D case being administered by the secretary for children and families;

(C) owes arrearages under a support order, as reported to the secretary for children and families by the court trustee; or

(D) has failed, after appropriate notice, to comply with a subpoena directed to the individual by the court trustee as reported to the secretary for children and families by the court trustee.

(2) Upon receiving a release from an authorized agent of the secretary for children and families or the court trustee, the secretary of wildlife, ~~and parks and tourism~~ may issue the lifetime fishing, hunting or furharvester or combination hunting and fishing license. The applicant shall have the burden of obtaining and delivering the release.

(3) The secretary for children and families shall issue a release upon request if, as appropriate:

(A) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

(B) an income withholding order has been served upon the applicant’s current employer or payor;

(C) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearages, together with receipt of the first minimum payment;

(D) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn; or

(E) the court trustee notifies the secretary for children and families that the applicant has paid the arrearages in full or has complied with the subpoena or the subpoena has been quashed or withdrawn.

(d) (1) Upon request of the secretary for children and families, the

secretary of wildlife, *and* parks ~~and tourism~~ shall suspend a lifetime fishing, hunting or furharvester or combination hunting and fishing license to a licensee as provided in this subsection. The secretary for children and families may make such a request if, at the time of the request, the applicant owed arrearages under a support order or had outstanding a warrant or subpoena as stated in subsection (c)(1).

(2) Upon receiving a release from an authorized agent of the secretary for children and families or the court trustee, the secretary of wildlife, *and* parks ~~and tourism~~ may reinstate the lifetime fishing, hunting or furharvester or combination hunting and fishing license. The licensee shall have the burden of obtaining and delivering the release.

(3) The secretary for children and families shall issue a release upon request if the requirements of subsection (c)(3) are met.

(e) Nothing in subsection (c) or (d) shall be construed to require or permit the secretary of wildlife, *and* parks ~~and tourism~~ to determine any issue related to a child support order or related to the title IV-D case including to resolve questions of mistaken identity or determine the adequacy of any notice relating to subsection (c) or (d) that the secretary of wildlife, *and* parks ~~and tourism~~ provides to the applicant.

(f) “Title IV-D” means part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., as in effect on December 31, 2001, relating to child support enforcement services.

(g) The secretary of *wildlife and parks*, in accordance with K.S.A. 32-805, and amendments thereto, may adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 55. K.S.A. 32-932 is hereby amended to read as follows: 32-932. (a) Any person having a permanent disability to the extent that such person cannot physically use a conventional long bow or compound bow, as certified by a person licensed to practice the healing arts in any state, shall be authorized to hunt and take deer, antelope, elk or wild turkey with a crossbow.

(b) The secretary of wildlife, *and* parks ~~and tourism~~ shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations requiring permits to hunt deer, antelope, elk or wild turkey pursuant to subsection (a) and providing for the approval of applicants for such permits and the issuance thereof. In addition, the secretary may adopt rules and regulations limiting the times and areas for hunting and taking deer, antelope, elk and wild turkey and limiting the number of deer, antelope, elk and wild turkey ~~which~~ *that* may be taken pursuant to subsection (a).

(c) Falsely obtaining or using a permit authorized by this section is a class C *nonperson* misdemeanor.

Sec. 56. K.S.A. 32-938 is hereby amended to read as follows: 32-938. The Kansas department of wildlife, *and* parks ~~and tourism~~ may reissue big game or wild turkey limited draw permits to military personnel forced

to forfeit their limited draw permit due to deployment in the event of armed conflict or war upon application and payment of the prescribed fee to the department and sufficient proof of such deployment. The permit, if reissued, shall be the same type, season and species permit that was forfeited and shall be valid during the next available hunting season upon return from the armed conflict or war by the applicant provided that the secretary may defer the reissuance of a permit to a future hunting season if the overall demand for reissued permits exceeds the anticipated annual sustainable harvest for that species. The reissuance of a permit shall be based on a first come, first served basis.

Sec. 57. K.S.A. 32-960a is hereby amended to read as follows: 32-960a. (a) ~~On or before January 1, 1998,~~ The secretary of *wildlife and parks* shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations establishing procedures for developing and implementing recovery plans for all species listed as in need of conservation, threatened or endangered. The secretary shall give priority to development of recovery plans for particular species based on a cumulative assessment of the scientific evidence available. Based on the priority ranking, the secretary shall develop and begin implementation of recovery plans for at least two listed species on or before January 1, 1999.

(b) Whenever a species is added to the list of threatened or endangered species, the secretary shall establish a volunteer local advisory committee composed of members broadly representative of the area affected by the addition of the species to the list. Members shall include representatives of specialists from academic institutions, agribusiness and other trade organizations, state environmental and conservation organizations and other interested organizations and individuals. In addition, the membership shall include, if appropriate, landowners and public officials representing state, local and tribal governments. To the maximum extent possible, committee membership shall evenly balance the interests of all potentially affected groups and institutions.

(c) The advisory committee shall:

(1) Work with the secretary to adapt the listing of the species and the recovery plan for the species to the social and economic conditions of the affected area; and

(2) disseminate information to the public about the scientific basis of the decision to list the species, the regulatory process and incentives available to landowners pursuant to this act.

(d) If a species in need of conservation receives a priority ranking to develop and begin implementation of a recovery plan, the secretary shall establish a volunteer local advisory committee in the same manner as provided by subsection (b) to work with the secretary to adapt the recovery plan and disseminate information to the public.

(e) In implementing a recovery plan for a species, the secretary shall consider any data, recommendations and information provided by the advisory committee.

(f) The secretary shall cause each developed and implemented recovery plan to be published and maintained on the official website of the department of wildlife, ~~and parks and tourism~~.

Sec. 58. K.S.A. 32-966 is hereby amended to read as follows: 32-966. The secretary of wildlife, ~~and parks and tourism~~ and the secretary of transportation shall cooperate in developing a management plan to address reduction of motor vehicle accidents involving deer in those areas of the state experiencing high numbers of such accidents. The management plan shall include methods to identify those areas and methods to inform and communicate with landowners and tenants in those areas regarding measures to reduce local deer populations.

Sec. 59. K.S.A. 32-976 is hereby amended to read as follows: 32-976. Except for research, scientific or demonstration purposes, the secretary of wildlife, ~~and parks and tourism~~ shall not stock or restock fish in any private water impoundment constructed by ~~man~~ humans and located wholly within lands owned or leased by the individual maintaining such impoundment unless the fish are secured from a private fish grower. These private waters do not include any impoundment constructed, owned, leased or operated by a federal, state or local governmental agency or by a person who has entered into an agreement with a federal, state or local governmental agency that such impoundment will be open to public access and use.

Sec. 60. K.S.A. 32-996 is hereby amended to read as follows: 32-996. (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the wildlife conservation fund under the control, authorities and duties of the Kansas department of wildlife, ~~and parks and tourism~~, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the ~~wildlife conservation restoration fund — federal, which is hereby created. The wildlife conservation fund — federal is hereby redesignated as the wildlife restoration fund.~~

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters ~~which~~ that relate to purposes authorized in K.S.A. 32-992, and amendments thereto, and ~~which~~ are under the control, authorities and duties of the secretary of wildlife, ~~and parks and tourism~~ and the Kansas department of wildlife, ~~and parks and tourism~~ as provided by law.

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

- (1) The average daily balance of moneys in the wildlife restoration fund, for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the wildlife restoration fund, shall be made in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, ~~and parks and tourism~~.

Sec. 61. K.S.A. 32-997 is hereby amended to read as follows: 32-997. (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the wildlife fee fund, under the control, authorities and duties of the Kansas department of wildlife, ~~and parks and tourism~~ shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the ~~wildlife fund — federal, which is hereby created. The wildlife fund — federal is hereby redesignated as the sport fish restoration fund.~~

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters ~~which~~ that relate to purposes authorized under K.S.A. 32-990, and amendments thereto, and ~~which~~ are under the control, authorities and duties of the secretary of wildlife, ~~and parks and tourism~~ and the Kansas department of wildlife, ~~and parks and tourism~~ as provided by law.

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

- (1) The average daily balance of moneys in the sport fish restoration fund, for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the sport fish restoration fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, ~~and parks and tourism~~.

Sec. 62. K.S.A. 32-998 is hereby amended to read as follows: 32-998. (a) All moneys received by the Kansas department of wildlife, ~~and parks and tourism~~ from sources other than those identified and restricted in K.S.A. 32-990, 32-991, 32-992, 32-993, 32-994 and 32-1173, and amendments thereto, or identified and allocated to a restricted fund by any ap-

propriation act, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the wildlife and parks nonrestricted fund, which is hereby created. ~~The wildlife and parks nonrestricted fund is hereby redesignated as the wildlife, parks and tourism nonrestricted fund.~~

(b) All expenditures from the wildlife, ~~and parks and tourism~~ nonrestricted fund may be for federal aid eligible expenditures at the discretion of the secretary.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife, ~~and parks and tourism~~ nonrestricted fund interest earnings based on:

(1) The average daily balance of moneys in the wildlife, ~~and parks and tourism~~ nonrestricted fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the wildlife, ~~and parks and tourism~~ nonrestricted fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

Sec. 63. K.S.A. 32-999 is hereby amended to read as follows: 32-999.

(a) The secretary of wildlife, ~~and parks and tourism~~ is authorized, with the approval of the Kansas wildlife, ~~and parks and tourism~~ commission, to establish fees for the public use of cabins owned or operated by the department. At a public meeting, the secretary, with consideration by the commission, shall set an amount for each fee that encourages use of such cabins and that enables the department to maintain and operate such cabins.

(b) Such fees as described in subsection (a) shall not exceed:

(1) A maximum of \$250 per night;

(2) a maximum of \$1,500 per week; and

(3) a maximum of \$5,000 per month.

(c) Fees for the use of cabins owned and operated by the Kansas department of wildlife, ~~and parks and tourism~~ shall be exempt from the provisions of K.S.A. 77-415 through 77-437, and amendments thereto.

Sec. 64. K.S.A. 32-9,100 is hereby amended to read as follows: 32-9,100. On and after January 1, 2013, the Kansas department of wildlife, ~~and parks and tourism~~ shall offer a resident senior combination hunting and fishing pass to residents of this state who are 65 years of age or more. The fee for such pass shall be an amount not to exceed $\frac{1}{8}$ the fee for a general combination lifetime hunting and fishing license. The provisions of this section shall expire on June 30, 2020.

Sec. 65. K.S.A. 32-1001 is hereby amended to read as follows: 32-1001. (a) It is unlawful for any person to:

(1) Participate or engage in any activity for which such person is required to have obtained a license, permit, stamp or other issue of the department under the wildlife, ~~and parks and tourism~~ laws of this state or under rules and regulations of the secretary unless such person has obtained a currently valid ~~such~~ license, permit, stamp or other issue issued to such person;

(2) fail to carry in such person's possession a currently valid license, permit, stamp or other issue of the department, issued to such person, while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife, ~~and parks and tourism~~ laws of this state or under rules and regulations of the secretary;

(3) refuse to allow examination of any license, permit, stamp or other issue of the department while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife, ~~and parks and tourism~~ laws of this state or under rules and regulations of the secretary, upon demand by any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(4) while participating or engaging in fishing or hunting;

(A) Fail to carry in such person's possession a card or other evidence that such person is required to carry pursuant to K.S.A. 32-980, and amendments thereto; or

(B) refuse to allow inspection of such card or other evidence upon demand of any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary; or

(5) make any false representation to secure any license, permit, stamp or other issue of the department, or duplicate thereof, or to make any alteration in any such license, permit, stamp or other issue.

(b) No person charged with violating subsection (a)(1) for failure to obtain a vehicle or camping permit for use of any state park, or any portion thereof or facility therein, or any other area or facility for which a vehicle or camping permit is required pursuant to rules and regulations of the secretary shall be convicted thereof unless such person refuses to purchase such permit after receiving a permit violation notice, ~~which~~. Such notice shall require the procurement of:

(1) The proper daily permit or permits and payment within 24 hours of a late payment fee of \$15; or

(2) an annual vehicle or camping permit, as the case may be, if such permit has been established by rule and regulation and adopted by the secretary.

(c) (1) In any prosecution charging a violation of subsection (a)(1) for failure to obtain a permit required by K.S.A. 32-901, and amendments thereto, proof that the particular vehicle described in the complaint was in violation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the time when and place where the violation occurred.

(2) Proof of a written lease of, or rental agreement for, a particular vehicle described in the complaint, on the date and at the time of the violation, which lease or rental agreement includes the name and address of the person to whom the vehicle was leased or rented at the time of the violation, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time when and place where the violation occurred.

(d) No person who is a resident of this state and charged with violating subsection (a)(1) or (a)(2) shall be convicted thereof if such person produces in court or the office of the arresting officer the appropriate license, permit, stamp or other issue of the department, lawfully issued to such person and valid at the time of such person's alleged violation.

(e) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

Sec. 66. K.S.A. 32-1004 is hereby amended to read as follows: 32-1004. (a) It is unlawful for any person to:

(1) Possess a carcass of a big game animal, taken within this state, unless a carcass tag, issued by the secretary, is attached to it in accordance with rules and regulations adopted by the secretary;

(2) possess a carcass of a wild turkey, taken in this state, unless a carcass tag, if required and issued by the secretary, is attached to it, in accordance with rules and regulations adopted by the secretary;

(3) possess a carcass of a big game animal or wild turkey, taken within the state, unless a check station tag, if required and issued by the secretary, is attached to it, in accordance with rules and regulations adopted by the secretary;

(4) possess any wildlife unlawfully killed or otherwise unlawfully taken outside this state;

(5) cause to be shipped within, from or into this state any illegally taken or possessed wildlife;

(6) intentionally import into this state, or possess or release in this state, any species of wildlife prohibited pursuant to K.S.A. 32-956, and amendments thereto;

(7) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect and count any wildlife in such person's possession; or

(8) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect any devices or facilities of such person which are used in taking, possessing, transporting, storing or processing any wildlife subject to the wildlife, *and parks and tourism* laws of this state or rules and regulations of the secretary.

(b) The provisions of subsection (a)(1), (a)(2) and (a)(3) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state.

(c) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

Sec. 67. K.S.A. 32-1005 is hereby amended to read as follows: 32-1005. (a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(2) selling, bartering, purchasing or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(3) shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported or carried; or delivering or receiving for shipping, exporting, importing, transporting or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or

(4) purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, \$1,000;

(2) deer or antelope, \$1,000;

(3) elk or buffalo, \$1,500;

(4) furbearing animals, except bobcats, \$25;

(5) bobcats, \$200;

(6) wild turkey, \$200;

(7) owls, hawks, falcons, kites, harriers or ospreys, \$500;

(8) game birds, migratory game birds, resident and migratory non-game birds, game animals and nongame animals, \$50 unless a higher amount is specified above;

(9) fish and mussels, the value for which shall be no less than the value

listed for the appropriate fish or mussels species in the monetary values of freshwater fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number 35;

(10) turtles, \$25 each for unprocessed turtles or \$16 per pound or fraction of a pound for processed turtle parts;

(11) bullfrogs, \$4, whether dressed or not dressed;

(12) any wildlife classified as threatened or endangered, \$500 unless a higher amount is specified above; and

(13) any other wildlife not listed above, \$25.

(c) Possession of wildlife, in whole or in part, captured or killed in violation of law and having an aggregate value of \$1,000 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.

(d) Commercialization of wildlife having an aggregate value of \$1,000 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than \$1,000, as specified in subsection (b), is a class A nonperson misdemeanor.

(e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 20 years all licenses and permits issued to the convicted person by the Kansas department of wildlife; ~~and parks and tourism~~; and

(2) order restitution to be paid to the Kansas department of wildlife; ~~and parks and tourism~~ for the wildlife taken. Such restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.

Sec. 68. K.S.A. 32-1031 is hereby amended to read as follows: 32-1031. (a) Unless otherwise provided by law or rules and regulations of the secretary, violation of any provision of the wildlife; ~~and parks and tourism~~ laws of this state or rules and regulations adopted thereunder is a class C *nonperson* misdemeanor.

(1) Upon a second conviction of a wildlife violation that is a class C *nonperson* misdemeanor, a fine of not less than \$250 shall be imposed.

(2) Upon a third conviction of a wildlife violation that is a class C *nonperson* misdemeanor, a fine of not less than \$300 shall be imposed.

(3) Upon a fourth and any subsequent convictions of a wildlife violation that is a class C *nonperson* misdemeanor, a fine of not less than \$400 shall be imposed and a minimum of not less than 7 days in the county jail shall be served.

(b) Any conviction for a wildlife violation that is a class C *nonperson* misdemeanor that occurs before July 1, 2005, shall not be considered for purposes of this section.

Sec. 69. K.S.A. 32-1032 is hereby amended to read as follows: 32-1032. (a) ~~(1)~~ Violation of any provision of the wildlife, *and parks and tourism* laws of this state or rules and regulations of the secretary relating to big game or wild turkey permits and game tags, taking big game or wild turkey during a closed season, taking big game or wild turkey in violation of ~~subsections (a)(1), (2) or (7) of K.S.A. 32-1003(a)(1), (a)(2) or (a)(7), and amendments thereto, or taking big game or wild turkey in violation of subsection (a)(2) or (3) of K.S.A. 32-1004(a)(2) or (a)(3), and amendments thereto, or taking big game or wild turkey in violation of K.S.A. 32-1013, and amendments thereto, is a misdemeanor, subject to the provisions of subsection (b), punishable by a fine or by imprisonment in the county jail, or by both.~~

~~(1)(2)~~ Upon a first or second conviction for a violation of the wildlife, *and parks and tourism* laws of this state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$500 nor more than \$1,000 or be imprisoned in the county jail for not more than six months, or both.

~~(2)(3)~~ Upon a third conviction for a violation of the wildlife, *and parks and tourism* laws of this state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$1,000 and shall be imprisoned in the county jail for not less than 30 days. A third conviction shall be a class B nonperson misdemeanor.

~~(3)(4)~~ Upon a fourth conviction for a violation of the wildlife, *and parks and tourism* laws of this state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$1,000 and shall be imprisoned in the county jail for not less than 60 days. A fourth conviction shall be a class A nonperson misdemeanor.

~~(4)(5)~~ Upon the fifth or subsequent convictions for a violation of the wildlife, *and parks and tourism* laws of the state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$1,000 and shall be imprisoned in the county jail for not less than 90 days. A fifth or subsequent conviction shall be a class A nonperson misdemeanor.

(6) Any conviction for a wildlife violation that occurs before July 1, 2005, shall not be considered for purposes of this subsection.

(b) (1) In addition to any other penalty prescribed by law, the unlawful intentional taking of a trophy big game animal shall be punishable by a fine of not less than \$5,000.

(2) A trophy big game animal shall include any animal meeting the following criteria:

(A) An antlered whitetail deer having an inside spread measurement of at least 16 inches;

(B) an antlered mule deer having an inside spread measurement of at least 20 inches;

(C) an antlered elk having at least six points on one antler; or

(D) an antelope having at least one horn greater than 14 inches in length.

(3) In addition to any other penalty prescribed by law, the defendant shall pay the restitution value of any deer, elk or antelope taken in violation of K.S.A. 32-1001, 32-1002, 32-1003, 32-1004, 32-1005 or 32-1013, and amendments thereto, with a gross score of more than 125 inches for deer, 250 inches for elk and 75 inches for antelope. Such restitution value shall be in an amount not less than the value prescribed for such animal in K.S.A. 32-1005, and amendments thereto. The restitution value for deer shall equal: $(\text{gross score} - 100)^2 \times \2 . The restitution value for elk shall equal: $(\text{gross score} - 200)^2 \times \2 . The restitution value for antelope shall equal: $(\text{gross score} - 40)^2 \times \2 . The gross score shall be determined by taking measurements as provided by rules and regulations of the secretary, which shall be made to the nearest $\frac{1}{8}$ of an inch using a $\frac{1}{4}$ inch wide flexible steel tape. All restitution collected pursuant to this ~~subparagraph~~ *paragraph* shall be paid into the state treasury and shall be credited to the wildlife fee fund created by K.S.A. 32-990, and amendments thereto.

(4) Antlers or horns may be measured pursuant to the manner described in subsection (b)(3) at any time. No drying time is required.

(5) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations that the secretary deems necessary to implement and define the terms of this section.

(c) In addition to any other penalty imposed by the convicting court, if a person is convicted of a violation of K.S.A. 32-1001, 32-1002, 32-1003, 32-1004 or 32-1013, and amendments thereto, that involves taking of a big game animal or wild turkey, or if a person is convicted of a violation of K.S.A. 32-1005, and amendments thereto, that involves commercialization of a big game animal or wild turkey:

(1) Upon the first such conviction, the court may order forfeiture of the person's hunting privileges for one year from the date of conviction and:

(A) Revocation of the person's hunting license, unless such license is a lifetime hunting license; or

(B) if the person possesses a lifetime hunting license, suspension of such license for one year from the date of conviction.

(2) Upon the second such conviction, the court shall order forfeiture of the person's hunting privileges for three years from the date of conviction and:

(A) Revocation of the person's hunting license, unless such license is a lifetime hunting license; or

(B) if the person possesses a lifetime hunting license, suspension of such license for three years from the date of conviction.

(3) Upon the third or a subsequent such conviction, the court shall order forfeiture of the person's hunting privileges for five years from the date of conviction and:

(A) Revocation of the person's hunting license, unless such license is a lifetime hunting license; or

(B) if the person possesses a lifetime hunting license, suspension of such license for five years from the date of conviction.

(d) If a person convicted of a violation described in subsection (c) has been issued a combination hunting and fishing license or a combination lifetime license, only the hunting portion of such license shall be revoked or suspended pursuant to subsection (c).

(e) Nothing in this section shall be construed to prevent a convicting court from suspending a person's hunting privileges or ordering the forfeiture or suspension of the person's license, permit, stamp or other issue of the department for a period longer than provided in this section, if such forfeiture or suspension is otherwise provided for by law.

Sec. 70. K.S.A. 32-1040 is hereby amended to read as follows: 32-1040. The court hearing the prosecution of any child 16 or 17 years of age who is charged with a violation of any provision of the wildlife, *and* parks ~~and tourism~~ laws of this state or rules and regulations adopted thereunder may impose any fine authorized by law for the offense or may order that the child be placed in a juvenile detention facility.

Sec. 71. K.S.A. 32-1041 is hereby amended to read as follows: 32-1041. (a) (1) Upon the first conviction of violating any provision of the wildlife, *and* parks ~~and tourism~~ laws of this state or rules and regulations of the secretary, and in addition to any authorized sentence imposed by the convicting court, such court may *order*:

(A) ~~Order~~ Such person to refrain from engaging in any activity, legal or illegal, *related to* the activity for which convicted for up to one year from the date of conviction; and

(B) ~~order~~ the forfeiture of any license, permit, stamp or other issue of the department, other than a lifetime license, ~~which~~ *that* is held by the convicted person and pertains to the activity for which the person was convicted for up to one year from the date of conviction.

(2) Upon any subsequent conviction of violating any provision of the wildlife, *and* parks ~~and tourism~~ laws of this state, or rules and regulations adopted thereunder, and in addition to any authorized sentence imposed by the convicting court, such court shall *order*:

(A) ~~Order~~ Such person to refrain from any activity, legal or illegal,

related to the activity for which convicted for one year from the date of conviction; and

(B) ~~order~~ the forfeiture of any license, permit, stamp or other issue of the department, other than a lifetime license, ~~which~~ *that* is held by the convicted person and pertains to the activity for which the person was convicted for one year from the date of conviction.

(b) (1) Upon the first conviction of violating any provision of the wildlife, ~~and parks and tourism~~ laws of this state, or rules and regulations adopted thereunder, by a person who has been issued a lifetime hunting or fishing license or a combination thereof, and in addition to any authorized sentence imposed by the convicting court, such court may order the suspension of such license for up to one year from the date of conviction.

(2) Upon any subsequent conviction of violating any provision of the wildlife, ~~and parks and tourism~~ laws of this state, or rules and regulations adopted thereunder, by a person who has been issued a lifetime hunting or fishing license or a combination thereof, and in addition to any authorized sentence imposed by the convicting court, such court shall order the suspension of such license for one year from the date of conviction.

(c) If a convicted person has been issued a combination hunting and fishing license or a combination lifetime license, only that portion of such license which pertains to the activity for which such person is convicted shall be subject to forfeiture or suspension pursuant to this section. In such case, the order of conviction shall indicate that part of the license which is forfeited or suspended, and such order shall become a temporary license under which the offender may either hunt or fish as the order indicates.

(d) Whenever a judge orders forfeiture or suspension of a license, permit, stamp or other issue of the department *of wildlife and parks* pursuant to this section, such physical license, permit, stamp or other issue shall be surrendered to the court and the judge shall forward it, along with a copy of the conviction order, to the department.

(e) A person whose license, permit, stamp or other issue of the department has been forfeited or suspended pursuant to subsection (a)(1) or (b)(1) shall not be eligible to purchase another such issue within 30 days of the conviction. A person whose license, permit, stamp or other issue of the department has been forfeited or suspended pursuant to subsection (a)(2) or (b)(2) shall not be eligible to purchase another such issue within one year from the date of conviction.

(f) A judge, upon a finding of multiple, repeated or otherwise aggravated violations by a defendant, may order forfeiture or suspension of the defendant's license, permit, stamp or other issue of the department for a period longer than otherwise provided by this section and may order the defendant to refrain from any activity, legal or illegal, related to the

activity for which convicted for a period longer than otherwise provided by this section.

Sec. 72. K.S.A. 32-1049 is hereby amended to read as follows: 32-1049. (a) Whenever a person is charged for any violation of any of the wildlife, ~~and parks and tourism~~ laws of this state or the provisions of article 11 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, punishable as a misdemeanor and is not immediately taken before a judge of the district court as required or permitted pursuant to K.S.A. 32-1048 and 32-1179, and amendments thereto, the officer may prepare a written citation containing a notice to appear in court, the name and address of the person, the offense charged, the time and place when and where the person shall appear in court and such other pertinent information as may be necessary.

(b) The time specified in the citation ~~must~~ *shall* be at least five days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

(c) The place specified in the citation ~~must~~ *shall* be before a judge of the district court within the county in which the offense is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the alleged violation occurred.

(d) The person charged with the violation may give a written promise to appear in court by signing at least one copy of the written citation prepared by the officer, in which event the officer shall deliver a copy of the citation to the person, and thereupon the officer shall not take the person into physical custody for the violation.

(e) In the event the form of citation provided for in this section includes information required by law and is signed by the officer preparing the same, such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under law.

Sec. 73. K.S.A. 32-1049a is hereby amended to read as follows: 32-1049a. (a) (1) Failure to comply with a wildlife, ~~and parks and tourism~~ citation means failure to:

~~(1)~~(A) Appear before any district court in response to a wildlife, ~~and parks and tourism~~ citation and pay in full any fine, court costs, assessments or fees imposed;

~~(2)~~(B) fully pay or satisfy all fines, court costs, assessments or fees imposed as a part of the sentence of any district court for violation of the wildlife, ~~and parks and tourism~~ laws of this state; or

~~(3)~~(C) otherwise comply with a wildlife, ~~and parks and tourism~~ citation as provided in K.S.A. 32-1049, and amendments thereto.

(2) Failure to comply with a wildlife, ~~and parks and tourism~~ citation is a class C *nonperson* misdemeanor, regardless of the disposition of the charge for which such citation, complaint or charge was originally issued.

(b) The term “citation” means any complaint, summons, notice to appear, ticket, warrant, penalty assessment or other official document issued for the prosecution of the wildlife, ~~and parks and tourism~~ laws or rules and regulations of this state.

(c) In addition to penalties of law applicable under subsection (a) when a person fails to comply with a wildlife, ~~and parks and tourism~~ citation or sentence for a violation of wildlife, ~~and parks and tourism~~ laws or rules and regulations, the district court in which the person should have complied shall mail a notice to the person that if the person does not appear in the district court or pay all fines, court costs, assessments or fees, and any penalties imposed within 30 days from the date of mailing, the Kansas department of wildlife, ~~and parks and tourism~~ shall be notified to forfeit or suspend any license, permit, stamp or other issue of the department. Upon receipt of a report of a failure to comply with a wildlife, ~~and parks and tourism~~ citation under this section, and amendments thereto, the department shall notify the violator and suspend or forfeit the license, permit, stamp or other issue of the department held by the violator until satisfactory evidence of compliance with the wildlife, ~~and parks and tourism~~ citation or sentence of the district court for violation of the wildlife, ~~and parks and tourism~~ laws or rules and regulations of this state are furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the department shall terminate the suspension action, unless the violator is otherwise suspended.

(d) Except as provided in subsection (e), when the district court notifies the department of a failure to comply with a wildlife, ~~and parks and tourism~~ citation or failure to comply with a sentence of the district court imposed on violation of a wildlife, ~~and parks and tourism~~ law or rule and regulation, the court shall assess a reinstatement fee of \$50 for each charge or sentence on which the person failed to make satisfaction, regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, court costs and other assessments, fees or penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the state general fund.

(e) The district court shall waive the reinstatement fee provided for in subsection (d), if the failure to comply with a wildlife, ~~and parks and tourism~~ citation was the result of such person enlisting in or being drafted into the armed services of the United States of America, being called

into service as a member of a reserve component of the military service of the United States of America, or volunteering for such active duty or being called into service as a member of the Kansas national guard or volunteering for such active duty and being absent from Kansas because of such military service. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

(f) Except as provided further, the reinstatement fee established in subsection (d) shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2019, through June 30, 2025, the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel.

Sec. 74. K.S.A. 32-1050 is hereby amended to read as follows: 32-1050. (a) Whenever any person is issued a citation by a conservation officer or deputy conservation officer of the wildlife and parks conservation service or by any law enforcement officer for any of the violations described in subsection (b), the officer may require such person to give bond in the amount specified in subsection (b) for the offense for which the person was charged, ~~which~~. Such bond shall be subject to forfeiture if the person does not appear at the court at the time specified in the written citation. The bond shall be a cash bond and shall be payable using cash or legal tender identified as travelers checks, certified checks, cashiers checks, personal checks and postal money orders. The cash bond shall be taken in the following manner: The officer shall furnish the person charged with a stamped envelope addressed to the judge or clerk of the court named in the written citation and the person shall place in such envelope the amount of the bond, and in the presence of the officer shall deposit the same in the United States mail. After having complied with these requirements, the person charged need not sign the citation, but the officer shall note the amount of the bond mailed on the citation and shall give a copy of such citation to the person.

(b) The offenses for which a cash bond may be required as provided in subsection (a) and the amounts thereof shall be as follows, subject to increase at the discretion of the court:

Engaging in any activity without a required valid license or permit, other than a big game or wild turkey permit or license or permit for commercial activity	\$100
Engaging in any activity without a required stamp or other issue of the department	75

Engaging in any commercial activity without a required valid license or permit	500
Engaging in any big game or wild turkey hunting without a required valid big game or wild turkey permit	500
Making misrepresentation to secure license, permit, stamp or other issue of the department	250
Taking wildlife, except big game or wild turkey, unlawfully (including but not limited to taking wildlife before or after legal taking hours, during closed season, or using unlawful equipment, means or method)	100
Carrying unplugged shotgun	75
Exceeding bag or possession limit, except big game or wild turkey — \$25 for each animal in excess of the bag or possession limit, plus	75
Exceeding big game or wild turkey bag or possession limit — \$100 for each animal in excess of the bag or possession limit, plus	250
Unlawful transporting of wildlife	150
Taking big game or wild turkey unlawfully (including, but not limited to, taking big game or wild turkey before or after legal taking hours, during closed season, or using unlawful equipment, means or method)	500
Failing to wear and properly display required clothing during a big game hunting season	75
Taking wildlife when operating an amount of equipment in excess of that legally authorized	75
Exceeding creel or possession limit — \$25 for each animal in excess of the creel or possession limit, plus	75
Operating vessel without a certificate of number or registration	50
Operating vessel without proper display of required identification number	50
Failing to properly display required lights on vessel between sunset and sunrise	50
Operating vessel without correct number or approved types of adult personal flotation devices — \$25 for each adult personal flotation device violation, plus	50
Operating vessel without correct number or approved types of child personal flotation devices — \$50 for each child personal flotation device violation, plus	100
Operating vessel without required number of personal flotation devices readily accessible and in good and serviceable condition — \$25 for each personal flotation device violation, plus	50
Operating vessel without required number or approved types of fire extinguishers	50

Operating vessel in restricted area50
 Operating vessel without required observer or rearview mirror
 on vessel50
 Operating vessel without required equipment or in excess of
 capacity plate limitations50
 Unlawful altering, destroying or removing of capacity plate100

(c) For any violation of the wildlife, ~~and parks and tourism~~ laws of this state or rules and regulations adopted thereunder for which a cash bond is not specified in subsection (b), the court may establish a cash bond amount.

(d) There shall be added to the amount of cash bond required pursuant to subsections (b) and (c) the amount of the docket fee as prescribed by K.S.A. 28-172a, and amendments thereto, for crimes defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto.

(e) In the event of forfeiture of any of the bonds set forth in this section, the amount added by *subsection* (d) to the amount of the cash bond shall be regarded as a docket fee.

Sec. 75. K.S.A. 32-1051 is hereby amended to read as follows: 32-1051. (a) It shall be the duty of all conservation officers and deputy conservation officers of the wildlife, ~~and parks and tourism~~ conservation service and all law enforcement officers authorized to enforce the laws of this state to diligently inquire into and prosecute all violations of the wildlife, ~~and parks and tourism~~ laws of this state and rules and regulations of the secretary. Any such officers having knowledge or notice of any such violation shall ~~forthwith~~ make complaint before a court of competent jurisdiction and venue. No such officer making complaint shall be liable for costs unless it is found by the court or jury that the complaint was filed for malicious purposes and without probable cause.

(b) Nothing in this section shall be construed to prevent the use of warnings or the issuance of warning tickets, in lieu of making a complaint, when circumstances warrant.

Sec. 76. K.S.A. 32-1052 is hereby amended to read as follows: 32-1052. In a prosecution of any person or persons for a violation of any of the wildlife, ~~and parks and tourism~~ laws of this state or rules and regulations of the secretary, it shall not be necessary to:

(a) State in the complaint the true or scientific name of the wildlife involved in the alleged violation; or

(b) state in the complaint or to prove at the trial that the taking or possessing of any wildlife involved in the alleged violation was not for the sole purpose of using or preserving it as a specimen for scientific purposes.

Sec. 77. K.S.A. 32-1053 is hereby amended to read as follows: 32-1053. It shall be the duty of each county or district attorney to prosecute

any person or persons charged with a violation of any of the wildlife, *and parks and tourism* laws of this state or rules and regulations of the secretary. The attorney so prosecuting shall receive the fee established by law or by the court having jurisdiction over the matter for each prosecution in a district court, and such fee shall be taxed to the defendant in every case where conviction shall be had.

Sec. 78. K.S.A. 32-1054 is hereby amended to read as follows: 32-1054. It shall be the duty of every judge or clerk of the court before whom any prosecution for a violation of the wildlife, *and parks and tourism* laws of this state or rules and regulations of the secretary is commenced or goes on appeal, within 20 days after disposition thereof or the occurrence of a failure to comply with a wildlife, *and parks and tourism* citation, to report in writing to the department the result thereof. The report of any disposition or failure to comply with a wildlife, *and parks and tourism* citation shall include the sentence of the court, the nature of the conviction or charge upon which the prosecution is based, the fines, fees, assessments and other penalties imposed and the forfeiture or suspension of any license, permit, stamp or other issue of the Kansas department of wildlife, *and parks and tourism*, if any.

Sec. 79. K.S.A. 32-1062 is hereby amended to read as follows: 32-1062. The secretary of the Kansas department of wildlife, *and parks and tourism* shall make and publish such rules and regulations, not inconsistent with law, as deemed necessary to carry out the purposes of the wildlife violator compact.

Sec. 80. K.S.A. 32-1063 is hereby amended to read as follows: 32-1063. It shall be unlawful for any person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to the wildlife violator compact, to exercise that right or privilege within this state or to purchase or possess such a license ~~which grants such right or privilege.~~

(a) Any person who knowingly hunts, fishes, traps, possesses, or transports any wildlife, or attempts to do any of the same, within this state in violation of such suspension or revocation pursuant to the wildlife violator compact shall be guilty of a class A nonperson misdemeanor and sentenced to the following:

- (1) A fine of not less than \$1,500 nor more than \$5,000; and
- (2) any privilege or right to hunt, fish, trap or otherwise take, possess or transport any wildlife in this state, or purchase or possess any license, permit, stamp or other issue of the Kansas department of wildlife, *and parks and tourism* shall be forfeited or suspended for a period of not less than two years nor more than five years in addition to and consecutive to the original revocation or suspension set forth by the provisions of the compact;

(3) the sentencing judge may impose other sanctions pursuant to K.S.A. 2022 Supp. 21-6602 and 21-6604, and amendments thereto.

(b) Any person who knowingly purchases or possesses, or attempts to purchase or possess, a license to hunt, fish, trap, possess or transport wildlife in this state in violation of such suspension or revocation pursuant to the wildlife violator compact shall be guilty of a class A nonperson misdemeanor and sentenced to the following:

(1) A fine of not less than \$750 nor more than \$2,500; and

(2) any privilege or right to hunt, fish, trap or otherwise take, possess or transport any wildlife in this state, or purchase or possess any license, permit, stamp or other issue of the Kansas department of wildlife, *and parks and tourism* shall be forfeited or suspended for a period of not less than two years in addition to and consecutive to the original revocation or suspension set forth by the provisions of the compact;

(3) the sentencing judge may impose other sanctions pursuant to K.S.A. 2022 Supp. 21-6602 and 21-6604, and amendments thereto.

Sec. 81. K.S.A. 32-1064 is hereby amended to read as follows: 32-1064. As used in the compact, the term “licensing authority,” with reference to this state, means the Kansas department of wildlife, *and parks and tourism*. The secretary of wildlife, *and parks and tourism* shall furnish to the appropriate authorities of party states any information or documents reasonably necessary to facilitate the administration of the compact.

Sec. 82. K.S.A. 32-1066 is hereby amended to read as follows: 32-1066. The secretary of the Kansas department of wildlife, *and parks and tourism* shall appoint the director or head administrator of the department’s law enforcement division or section to serve on the board of compact administrators as the compact administrator for this state as required by section 1 subsection (a) of article VII of the wildlife violator compact.

Sec. 83. K.S.A. 32-1074 is hereby amended to read as follows: 32-1074. (a) The lesser prairie chicken and the greater prairie chicken are non-migratory species that are native to the grasslands of Kansas.

(b) The lesser prairie chicken and the greater prairie chicken do not inhabit or swim in any static bodies of water, navigable waterways or non-navigable waterways.

(c) The existence and management of the lesser prairie chicken and the greater prairie chicken do not have a substantial effect on commerce among the states.

(d) The Kansas department of wildlife, *and parks and tourism*, and its predecessor agencies, have successfully managed lesser prairie chickens and greater prairie chickens in the state and have provided for the adequate preservation of the habitats of such species.

Sec. 84. K.S.A. 32-1075 is hereby amended to read as follows: 32-1075. (a) The state of Kansas, acting through the Kansas legislature and through the Kansas department of wildlife, *and* parks ~~and tourism~~, possesses the sole regulatory authority to govern the management, habitats, hunting and possession of lesser prairie chickens and greater prairie chickens that exist within the state of Kansas.

(b) The lesser prairie chickens and the greater prairie chickens that exist within the state and the habitats of such species, are not subject to the endangered species act of 1973, as in effect on the effective date of this act, or any federal regulation or executive action pertaining thereto, under the authority of congress to regulate interstate commerce.

(c) Any federal regulation or executive action pertaining to the endangered species act of 1973, as in effect on the effective date of this act, that purports to regulate the following has no effect within the state:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or the habitats of such species.

Sec. 85. K.S.A. 32-1077 is hereby amended to read as follows: 32-1077. (a) This act shall not be construed to infringe on the authority of the United States department of agriculture to administer conservation programs that apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

(b) This act shall not be construed to infringe on the authority of the United States environmental protection agency, or the state of Kansas under delegated authority, to administer the federal water pollution prevention and control act, as in effect on the effective date of this act, or the clean air act, as in effect on the effective date of this act, to the extent it may apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

(c) This act shall not be construed to infringe on the authority of the Kansas department of wildlife, *and* parks ~~and tourism~~ or any private cit-

izen of this state to operate or participate in the range wide lesser prairie chicken management plan, the stakeholder conservation strategy for the lesser prairie chicken, or any other management or conservation plan pertaining to the lesser prairie chicken that may be developed with the assistance and participation of the United States fish and wildlife service and apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

Sec. 86. K.S.A. 32-1102 is hereby amended to read as follows: 32-1102. As used in article 11 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, unless the context clearly requires a different meaning:

(a) “Vessel” means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

(b) “Motorboat” means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(c) “Owner” means a person, other than a lienholder, having the property in or title to a vessel. ~~The term “Owner” includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes.~~ “Owner” *does not include* a lessee under a lease not intended as security.

(d) “Waters of this state” means any waters within the territorial limits of this state.

(e) “Person” means an individual, partnership, firm, corporation, association or other entity.

(f) “Operate” means to navigate or otherwise use a motorboat or a vessel.

(g) “Department” means the Kansas department of wildlife, *and* parks ~~and tourism~~.

(h) “Secretary” means the secretary of wildlife, *and* parks ~~and tourism~~.

(i) “Length” means the length of the vessel measured from end to end over the deck excluding sheer.

(j) “Operator” means the person who operates or has charge of the navigation or use of a motorboat or a vessel.

(k) “Undocumented vessel” means a vessel ~~which~~ *that* is not required to have, and does not have, a valid marine document issued by the United States coast guard or federal agency successor thereto.

(l) “Reportable boating accident” means an accident, collision or other casualty involving a vessel subject to this act ~~which~~ *that* results in loss of life, injury sufficient to require first aid or medical attention, or actual physical damage to property, including a vessel, in excess of an amount established by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(m) “Marine sewage” means any substance that contains any of the waste products, excrement or other discharges from the bodies of human beings or animals, or foodstuffs or materials associated with foodstuffs intended for human consumption.

(n) “Marine toilet” means any latrine, head, lavatory or toilet ~~which~~ *that* is intended to receive marine sewage and ~~which~~ is located on or in any vessel.

(o) “Passenger” means any individual who obtains passage or is carried in or on a vessel.

(p) “Sail board” means a surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind.

(q) “Dealer” means any person who:

(1) For a commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel, whether or not the vessel is owned by such person;

(2) maintains an established place of business with sufficient space to display vessels at least equal in number to the number of dealer certificates of number the dealer has been assigned; and

(3) maintains signage easily visible from the street identifying the established place of business.

(r) “Demonstrate” means to operate a vessel on the waters of this state for the purpose of selling, trading, negotiating or attempting to negotiate the sale or exchange of interests in new or used vessels or for the purpose of testing the design or operation of a vessel.

(s) “Sailboat” means any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water.

(t) “Boat livery” means any person offering a vessel or vessels of varying types for rent.

(u) “Cargo” means the items placed within or on a vessel and ~~shall include~~ *includes* any persons or objects towed on water skis, surfboards, tubes or similar devices behind the vessel.

(v) “State of principal use” means the state on the waters of which a vessel is used or to be used most during the calendar year.

(w) “Use” means to operate, navigate or employ.

(x) “Abandoned vessel” means any vessel on public waters or public or private land ~~which~~ *that* remains unclaimed for a period of 15 consecutive days.

Sec. 87. K.S.A. 32-1112 is hereby amended to read as follows: 32-1112. (a) A licensed dealer demonstrating, displaying or exhibiting on the waters of this state any vessel of a type required to be numbered under the laws of this state may obtain from the department of *wildlife and parks*, in lieu of obtaining a certificate of number for each such vessel, dealer certificates of number for use in demonstrating, displaying or exhibiting any such vessel. No such dealer certificate of number shall be issued by the department except upon application to the secretary upon forms prescribed by the secretary and upon payment of the required fees. The dealer certificate of number must accompany the vessel and the number assigned by such dealer certificate must be temporarily placed on the vessel while it is being demonstrated, displayed or exhibited on the waters of this state. During the calendar year for which issued, such dealer certificate may be transferred from one such vessel to another owned or operated by such dealer. Such dealer certificate of number may be used in lieu of a regular certificate of number for the purposes of demonstrating, displaying or exhibiting vessels held in inventory of such dealer. Such dealer certificate of number may also be used on such dealer’s service vessel, or substitute vessels owned by the dealer but loaned to a customer when the dealer is repairing such customer’s vessel.

(b) No dealer in vessels of a type required to be numbered under the laws of this state shall cause or permit any such vessel owned by such dealer to be on the waters of this state unless the original dealer certificate of number accompanies the vessel and the number assigned by such dealer certificate is temporarily placed on the vessel as required by this section. A dealer who wishes to operate or allow operation of more than one vessel simultaneously on the waters of this state shall apply for additional dealer certificates as provided by the secretary.

(c) No dealer certificate of number shall be issued to any dealer unless such dealer at the time of making application therefor exhibits to the secretary or the secretary’s agent a receipt showing that the applicant has paid all personal property taxes and sales tax levied against such dealer for the preceding year, including taxes assessed against vessels of such dealer ~~which~~ *that* were assessed as stock in trade, or unless the dealer exhibits satisfactory evidence that the dealer had no taxable personal property for the preceding year. If application for registration is made before June 21, the receipt may show payment of only ½ of the preceding year’s taxes.

(d) To determine the number of dealer certificates of number a dealer needs, the secretary may base the decision on the dealer’s past sales, inventory and any other pertinent factors as the secretary may determine.

After the end of the first year of licensure as a dealer, not more than one dealer certificate of number shall be issued to any dealer who has not reported to the secretary the sale of at least five vessels in the preceding year. There shall be no refund of fees for dealer certificates of number in the event of suspension, revocation or voluntary cancellation of such certificates of number.

(e) Any dealer of vessels may authorize use of dealer certificates of number assigned to such dealer by the following:

- (1) The licensed dealer and such dealer's spouse;
- (2) any employee of such dealer when the use thereof is directly connected to a particular business transaction of such dealer; and
- (3) the dealer's customer when operating a vessel in connection with negotiations to purchase such vessel or during a demonstration of such vessel, as stated in a written agreement between the dealership and the customer, with such required information as deemed necessary by the secretary.

(f) Except as hereinafter provided, every dealer of vessels shall:

(1) On or before the 20th day of the month following the end of a calendar quarter, file a report for such quarter report, on a form prescribed and furnished by the secretary, listing all sales or transfers, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vessel, and such other information as the secretary may require. The Kansas department of wildlife, *and* parks ~~and tourism~~ shall make a copy of the report available to the department of revenue.

(2) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the secretary and return the dealer's license and dealer certificates of number and, upon receipt of such notice, license and certificates of number, the secretary shall cancel the dealer's certificates of number, except that such dealer, upon payment of 50% of the annual dealer's license fee to the secretary, may have the license and dealer certificates of number assigned to the purchaser of the business.

(g) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for the administration of provisions of this section, including, but not limited to, dealer certificate of number applications and renewals, temporary placement of numbers and possession of dealer certificates of number.

Sec. 88. K.S.A. 32-1129 is hereby amended to read as follows: 32-1129. (a) (1) No operator of any vessel may operate such vessel while any person 12 years of age or under is aboard or being towed by such vessel unless such person is either:

(A) Wearing a United States coast guard-approved personal flotation device as prescribed in rules and regulations of the secretary of wildlife, *and* parks ~~and tourism~~; or

- (B) is below decks or in an enclosed cabin.
- (2) A life belt or ring shall not satisfy the requirement of this section.
- (b) Violation of subsection (a) shall constitute a class C *nonperson* misdemeanor.

Sec. 89. K.S.A. 32-1174 is hereby amended to read as follows: 32-1174. (a) All federal moneys received pursuant to federal assistance, federal-aid funds or federal-aid grant reimbursements related to boating or boating programs under the control, authorities and duties of the Kansas department of wildlife, ~~and parks and tourism~~ shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the boating fund—*federal safety financial assistance fund*, which is hereby created, to be dedicated and used for the purposes authorized in K.S.A. 32-1173, and amendments thereto. ~~The boating fund—federal is hereby redesignated as the boating safety financial assistance fund.~~

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters ~~which~~ *that* are under the control, authorities and duties of the secretary of wildlife, ~~and parks and tourism~~ and the Kansas department of wildlife, ~~and parks and tourism~~ as provided by law.

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

- (1) The average daily balance of moneys in the boating safety financial assistance fund, for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the boating safety financial assistance fund, shall be made in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, ~~and parks and tourism~~.

Sec. 90. K.S.A. 32-1203 is hereby amended to read as follows: 32-1203. (a) In accordance with the provisions of this act, the secretary of wildlife, ~~and parks and tourism~~ shall develop and administer a grant program to award grants to Kansas local governments for capital improvements for local government outdoor recreation facilities. The grants shall be awarded annually on a competitive basis in accordance with guidelines and criteria prescribed by rules and regulations adopted by the secretary of wildlife, ~~and parks and tourism~~. Each grant shall be matched by the local government receiving the grant on the basis of \$1 provided by the local government for each \$1 provided under the grant for the capital improvement.

- (b) The secretary of wildlife, ~~and parks and tourism~~ shall designate

annually a portion of all moneys appropriated for local government outdoor recreation grants for renovations and repairs to provide safety improvements ~~and handicapped~~, accessibility *for persons with physical or developmental disabilities* and other improvements, including improvements to attain compliance with the requirements imposed under the federal Americans with disabilities act.

Sec. 91. K.S.A. 32-1306 is hereby amended to read as follows: 32-1306. (a) All dangerous regulated animals shall be confined within a cage of sufficient strength and design for the purposes of maintaining and housing or transporting the animal. The requirements for sufficient caging shall be established by rules and regulations adopted by the secretary of wildlife, ~~and parks and tourism~~. Any cage or confinement structure shall be constructed in such a manner that prohibits physical contact with any person other than such persons listed in subsection (d).

(b) No dangerous regulated animal shall be allowed to be tethered, leashed or chained outdoors, or allowed to run at large.

(c) A dangerous regulated animal shall not be mistreated, neglected, abandoned or deprived of necessary food, water and sustenance.

(d) A dangerous regulated animal shall not be allowed to come into physical contact with any person other than the person possessing the animal, the registered designated handler or a veterinarian administering medical examination, treatment or care.

(e) A dangerous regulated animal shall not be brought to any public property or commercial or retail establishment, except to bring the animal to a licensed veterinarian or veterinarian clinic.

Sec. 92. K.S.A. 32-1308 is hereby amended to read as follows: 32-1308. Exemptions to the provisions set forth in this act are as follows:

(a) Institutions accredited by the American zoo and aquarium association or the zoological association of America shall be exempt from K.S.A. 32-1302 and 32-1303, and amendments thereto.

(b) A wildlife sanctuary registered with the local animal control authority shall be exempt from K.S.A. 32-1302, and amendments thereto.

(c) The Kansas department of wildlife, ~~and parks and tourism~~, or a person issued a permit by the secretary pursuant to K.S.A. 32-952, and amendments thereto, shall be exempt from this act.

(d) A licensed or accredited research or medical institution shall be exempt from K.S.A. 32-1302 and 32-1303, and amendments thereto.

(e) A United States department of agriculture licensed exhibitor of dangerous regulated animals while transporting or as part of a circus, carnival, rodeo or fair shall be exempt from this act.

Sec. 93. K.S.A. 32-1310 is hereby amended to read as follows: 32-1310. (a) Annually, on or before April 1, a local animal control authority

shall report to the secretary of wildlife, ~~and parks and tourism~~ on dangerous regulated animals registered with the local animal control authority during the preceding calendar year. The report shall include all registration information submitted to the local animal control authority under ~~subsection (b) of K.S.A. 32-1303(b)~~, and amendments thereto, and information on enforcement actions taken under this act.

(b) It shall be a violation of this act for a person who does not own the dangerous regulated animal, to care for, have custody or control of such animal unless such person is a registered designated handler. Any such person applying for a designated handler registration shall file an application on a form prescribed by the local animal control authority. Application for such registration shall be accompanied by an application fee not exceeding \$25. If the local animal control authority finds the applicant to be qualified to be a registered designated handler after meeting the training, experience and ability requirements determined by the secretary of wildlife, ~~and parks and tourism~~, the local animal control authority shall issue a designated handler registration ~~which~~ *that* shall expire at the end of the calendar year.

(c) The secretary of wildlife, ~~and parks and tourism~~ shall provide educational training programs for the local animal control authority concerning the provisions of this act and the handling of dangerous regulated animals.

(d) The secretary of wildlife, ~~and parks and tourism~~ shall adopt rules and regulations:

- (1) Establishing training, experience and ability requirements for registered designated handlers; and
- (2) to implement the provisions of this act.

Sec. 94. K.S.A. 32-1401 is hereby amended to read as follows: 32-1401. The secretary of ~~wildlife, parks and tourism~~ *commerce* is hereby authorized to negotiate and enter into contracts for promotional advertising services for the performance of the powers, duties and functions of the Kansas department of ~~wildlife, parks and tourism~~ *commerce*. All such contracts shall be exempt from the competitive bidding requirements of K.S.A. 75-3739, and amendments thereto.

Sec. 95. K.S.A. 32-1402 is hereby amended to read as follows: 32-1402. There is hereby established within and as a part of the Kansas department of ~~wildlife, parks and tourism~~ *commerce* a division of tourism, the head of which shall be the director of tourism. The purpose of the division of tourism shall be to increase the number of visitors to Kansas by promoting the state as a travel and learning opportunity to both Kansans and non-Kansans alike. Under the supervision of the secretary of ~~wildlife, parks and tourism~~ *commerce*, the director of tourism shall administer the division of tourism. The secretary of ~~wildlife, parks and tourism~~ *commerce*

shall appoint the director of tourism and the director shall serve at the pleasure of the secretary. The director of tourism shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of ~~wildlife, parks and tourism~~ *commerce* and approved by the governor.

Sec. 96. K.S.A. 32-1403 is hereby amended to read as follows: 32-1403. The division of tourism of the Kansas department of ~~wildlife, parks and tourism~~ *commerce* is hereby authorized and empowered to:

(a) Encourage and promote the traveling public to visit this state by publicizing information as to the recreational, historic and natural advantages of the state and its facilities for transient travel and to contract with organizations for the purpose of promoting tourism within the state;

(b) request other state agencies such as, but not limited to, the Kansas water office the department of ~~commerce~~ *wildlife and parks* and the department of transportation, for assistance and all such agencies shall coordinate information and their respective efforts with the department to most efficiently and economically carry out the purpose and intent of this subsection; and

(c) solicit and receive moneys from any public or private source and administer a program of matching grants to provide assistance to those entities described in K.S.A. 32-1420, and amendments thereto, in the promotion of tourism and the development of quality tourist attractions in this state.

Sec. 97. K.S.A. 32-1410 is hereby amended to read as follows: 32-1410. (a) (1) There is hereby established the council on travel and tourism. The council shall consist of 17 voting members as follows:

~~(1)(A)~~ The chairperson of the standing committee on commerce of the senate, or a member of the senate appointed by the president of the senate;

~~(2)(B)~~ the ~~vice chairperson~~ *vice chairperson* of the standing committee on commerce of the senate, or a member of the senate appointed by the president of the senate;

~~(3)(C)~~ the ranking minority member of the standing committee on commerce of the senate, or a member of the senate appointed by the minority leader of the senate;

~~(4)(D)~~ the chairperson of the standing committee on ~~tourism and parks~~ *agriculture and natural resources* of the house of representatives, or its successor committee, or a member of the house of representatives appointed by the speaker of the house of representatives;

~~(5)(E)~~ the ~~vice chairperson~~ *vice chairperson* of the standing committee on ~~tourism and parks~~ *agriculture and natural resources* of the house of representatives, or its successor committee, or a member of the house of representatives appointed by the speaker of the house of representatives;

~~(6)(F)~~ the ranking minority member of the standing committee on ~~tourism and parks~~ *agriculture and natural resources* of the house of representatives, or its successor committee, or a member of the house of representatives appointed by the minority leader of the house of representatives; and

~~(7)(G)~~ eleven members appointed by the governor. Of the 11 members appointed by the governor, one shall be appointed from a list of three nominations made by the travel industry association of Kansas, one shall be an individual engaged in the lodging industry and appointed from a list of three nominations made by the Kansas restaurant and hospitality association, one shall be an individual engaged in the restaurant industry and appointed from a list of three nominations made by the Kansas restaurant and hospitality association, one shall be appointed from a list of three nominations made by the petroleum marketers and convenience store association of Kansas, one shall be appointed from a list of three nominations by the Kansas sport hunting association and six shall be appointed to represent the general public.

(2) In addition to the voting members of the council, four members of the council shall serve *ex officio*: The secretary of commerce, the secretary of transportation, the secretary of wildlife, *and* parks ~~and tourism~~ and the executive director of the state historical society. Each *ex officio* member of the council may designate an officer or employee of the state agency of the *ex officio* member to serve on the council in place of the *ex officio* member. The *ex officio* members of the council, or their designees, shall be nonvoting members of the council and shall provide information and advice to the council.

(b) Legislator members shall be appointed for terms coinciding with the terms for which such members are elected. Of the 11 members first appointed by the governor, six shall be appointed for terms of three years and five shall be appointed for terms of two years as determined by the governor. Thereafter, all members appointed by the governor shall be appointed for terms of three years. All members appointed to fill vacancies in the membership of the council and all members appointed to succeed members appointed to membership on the council shall be appointed in like manner as that provided for the original appointment of the member succeeded.

(c) On July 1 of each year the council shall elect a chairperson and vice-chairperson from among its members. The council shall meet at least four times each year at the call of the chairperson of the council. Nine voting members of the council shall constitute a quorum.

(d) Members of the council attending meetings of such council, or attending a subcommittee meeting thereof authorized by such council, shall be paid amounts for mileage as provided in ~~subsection (e) of K.S.A. 75-3223(c)~~, and amendments thereto, or a lesser amount as determined

by the ~~Kansas department of wildlife, parks and tourism~~ *secretary of commerce*. Amounts paid under this subsection to ex officio members of the council, or their designees, shall be from appropriations to the state agencies of which such members are officers or employees upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief administrative officers of such agencies. Amounts paid under this subsection to voting members of the council shall be from moneys available for the payment of such amounts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the council.

Sec. 98. K.S.A. 32-1411 is hereby amended to read as follows: 32-1411. The council on travel and tourism shall:

(a) Advise the ~~Kansas department of wildlife, parks and tourism~~ *commerce* in the development and implementation of the state's tourism marketing and business development program including, but not limited to, long-range strategies for attracting visitors to the state;

(b) report to the ~~Kansas department of wildlife, parks and tourism~~ *commerce* information for preparation of the annual budget for the division of ~~travel and~~ tourism development;

(c) identify and review tourism related issues and current state policies and programs which directly or indirectly affect travel and tourism in the state and, as appropriate, recommend the adoption of new, or the modification of existing, policies and programs; and

(d) perform such other acts as may be necessary in carrying out the duties of the council.

Sec. 99. K.S.A. 32-1412 is hereby amended to read as follows: 32-1412. (a) There is hereby established in the state treasury the state tourism fund. All moneys credited to the state tourism fund shall only be used for expenditures for the purposes of developing new tourism attractions in Kansas and to significantly expand existing tourism attractions in Kansas. Both public and private entities shall be eligible to apply for funds under the provisions of this act.

(b) The ~~secretary of wildlife, parks and tourism~~ *commerce* shall administer the provisions of this act. The secretary may adopt rules and regulations establishing criteria for obtaining grants and other expenditures from such fund and other matters deemed necessary for the administration of this act.

(c) All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~wildlife, parks and tourism~~ *commerce* or the secretary's designee.

(d) The ~~secretary of wildlife, parks and tourism~~ *commerce* shall prepare and submit budget estimates for all proposed expenditures from the

state tourism fund in accordance with the provisions of K.S.A. 75-3717 and 75-3717b, and amendments thereto. Such budget estimates shall include detailed information regarding all proposed expenditures for programs, projects, activities and other matters and shall set forth separately each program, project, activity or other expenditure for which the proposed expenditures from the state tourism fund for a fiscal year are for an amount that is equal to \$50,000 or more. Appropriations for the Kansas department of ~~wildlife, parks and tourism~~ *commerce* of moneys in the state tourism fund for each program, project, activity or other expenditure for a fiscal year for an amount that is equal to \$50,000 or more shall be made as a separate item of appropriation.

(e) The legislature shall approve or disapprove of any itemized expenditure from the state tourism fund.

(f) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state tourism fund established in subsection (a) interest earnings based on:

(1) The average daily balance of moneys in the state tourism fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 100. K.S.A. 32-1413 is hereby amended to read as follows: 32-1413. (a) The council on travel and tourism, established under K.S.A. 32-1410, and amendments thereto, shall oversee all matters concerning the state tourism fund and expenditures therefrom.

(b) The council, by a majority vote, shall determine for inclusion in the Kansas department of ~~wildlife, parks and tourism~~ *commerce* budget expenditures from the state tourism fund.

Sec. 101. K.S.A. 32-1420 is hereby amended to read as follows: 32-1420. (a) There is hereby established a state matching grant program to provide assistance in the promotion of tourism and development of quality tourist attractions within the state of Kansas. Grants awarded under this program shall be limited to not more than 40% of the cost of any proposed project. Applicants shall not utilize any state moneys to meet the matching requirements under the provisions of this program. Both public and private entities shall be eligible to apply for a grant under the provisions of this act. Not less than 75% of all moneys granted under this program shall be allocated to public entities or entities exempt from taxation under the provisions of 501(c)(3) of the federal internal revenue code of 1986, and amendments thereto. No more than 20% of moneys granted to public or nonprofit entities shall be granted to any single such entity. Furthermore, no more than 20% of moneys granted to private entities shall be granted to any single such entity. The secretary of ~~wildlife, parks and tourism~~ *commerce* shall administer the provisions of this act and the

secretary may adopt rules and regulations establishing criteria for qualification for a matching grant and such other matters deemed necessary by the secretary for the administration of this act.

(b) For the purpose of K.S.A. 32-1420 through 32-1422, and amendments thereto, “tourist attraction” means a site that is of significant interest to tourists as a historic, cultural, scientific, educational, recreational or architecturally unique site, or as a site of natural scenic beauty or an area naturally suited for outdoor recreation, however, under no circumstances shall “tourist attraction” mean a race track facility, as defined in K.S.A. 74-8802, and amendments thereto, or any casino or other establishment ~~which that~~ operates class three games, as defined in the 1991 version of 25 U.S.C. § 2703, *as in effect on July 1, 1991*.

Sec. 102. K.S.A. 32-1421 is hereby amended to read as follows: 32-1421. (a) There is hereby established the Kansas tourist attraction evaluation committee within the Kansas department of ~~wildlife, parks and tourism~~ *commerce*. The committee shall consist of three members, all of whom shall have appropriate experience and expertise in the area of travel and tourism. The members of the committee shall be appointed by the secretary of ~~wildlife, parks and tourism~~ *commerce* and shall serve at the secretary’s pleasure.

(b) The committee shall screen, evaluate and approve or disapprove all applications for matching grants by those entities described in K.S.A. 32-1420, and amendments thereto, for the promotion of tourism and the development of tourist attractions in the state. The committee shall also provide technical advice upon request to any local tourist attraction upon ways to improve its operations.

(c) The director of tourism shall serve as a nonvoting chairperson of the committee and the committee shall annually elect a vice-chairperson from among its members. The committee shall meet upon call of the chairperson or upon call of any two of its members. Two voting members shall constitute a quorum for the transaction of business.

(d) All members of the committee shall serve without compensation or any other allowances authorized under the provisions of article 32 of chapter 75 of the Kansas Statutes Annotated, *and amendments thereto*.

Sec. 103. K.S.A. 32-1422 is hereby amended to read as follows: 32-1422. (a) There is hereby established the Kansas tourist attraction matching grant development fund in the state treasury. The Kansas tourist attraction matching grant development fund shall be administered by the secretary of ~~wildlife, parks and tourism~~ *commerce*. All moneys in the Kansas tourist attraction matching grant development fund shall be used to provide matching grants to provide assistance in the promotion of tourism and the development of quality tourist attractions within this state in accordance with this act.

(b) All moneys received pursuant to ~~subsection (e) of~~ K.S.A. 74-5032a(c), and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas tourist attraction matching grant development fund.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas tourist attraction matching grant development fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas tourist attraction matching grant development fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

Sec. 104. K.S.A. 32-1432 is hereby amended to read as follows: 32-1432. As used in K.S.A. 32-1430 through 32-1438, and amendments thereto:

(a) “Agritourism activity” means any activity which allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not limited to, farming activities, ranching activities or historic, cultural or natural attractions. An activity may be an agritourism activity whether or not the participant pays to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity.

(b) “Inherent risks of a registered agritourism activity” means those dangers or conditions which are an integral part of such agritourism activity including, but not limited to, certain hazards such as surface and sub-surface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming or ranching operations. “Inherent risks of a registered agritourism activity” also includes the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to follow instructions given by the registered agritourism operator or failing to exercise reasonable caution while engaging in the registered agritourism activity.

(c) “Participant” means any person who engages in a registered agritourism activity.

(d) “Registered agritourism activity” means any agritourism activity registered with the secretary pursuant to K.S.A. 32-1433, and amendments thereto.

(e) “Registered agritourism location” means a specific parcel of land which is registered with the secretary pursuant to K.S.A. 32-1433, and amendments thereto, and where a registered agritourism operator engages in registered agritourism activities.

(f) “Registered agritourism operator” means any person who is engaged in the business of providing one or more agritourism activities and is registered with the secretary pursuant to K.S.A. 32-1433, and amendments thereto.

(g) “Secretary” means the secretary of ~~wildlife, parks and tourism commerce~~.

Sec. 105. K.S.A. 32-1433 is hereby amended to read as follows: 32-1433. (a) Any person who is engaged in the business of providing one or more agritourism activities may register with the secretary of ~~wildlife, parks and tourism commerce~~. The registration shall contain all of the following:

(1) Information describing the agritourism activity ~~which~~ that the person conducts or intends to conduct.

(2) Information describing the location where the person conducts or intends to conduct such agritourism activity.

(b) The secretary shall maintain a list of all registered agritourism operators, the registered agritourism activities conducted by each operator and the registered agritourism location where the operator conducts such activities. Such list shall be made available to the public. The secretary, in conjunction with other agritourism and rural economic efforts of the secretary, shall promote and publicize registered agritourism operators, activities and locations to advance the purpose of this act by promoting and encouraging tourism.

(c) Registration pursuant to this section shall be for a period of five years.

(d) No fee shall be charged to persons registering under this section.

Sec. 106. K.S.A. 32-1438 is hereby amended to read as follows: 32-1438. (a) For taxable years commencing on and after December 31, 2003, December 31, 2004, December 31, 2005, December 31, 2006, and December 31, 2007, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator who operates an agritourism activity on the effective date of this act. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer’s income tax liability for such taxable year, the amount thereof ~~which~~ that exceeds such tax liability may be carried over for deduction from the taxpayer’s income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(b) For the first five taxable years commencing after a taxpayer opens such taxpayer’s business, after the effective date of this act, there shall be allowed as a credit against the tax liability of a taxpayer imposed under

the Kansas income tax act, an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator who starts an agritourism activity after the effective date of this act. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof ~~which~~ *that* exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(c) The secretary of ~~wildlife, parks and tourism~~ *commerce* shall adopt rules and regulations establishing criteria for determining those costs which qualify as costs of liability insurance for agritourism activities of a registered agritourism operator.

~~(d) On or before the 15th day of the regular legislative session in 2006, the secretary of commerce shall submit to the senate standing committee on commerce and the house standing committee on tourism and parks a report on the implementation and use of the tax credit provided by this section.~~

~~(e) As used in this section, terms have the meanings mean the same as provided by K.S.A. 32-1432, and amendments thereto.~~

~~(f)(e) For tax year 2013 and all tax years thereafter, the income tax credit provided by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (e) of K.S.A. 79-32,110(c), and amendments thereto, and shall be applied only against such taxpayer's corporate income tax liability.~~

Sec. 107. K.S.A. 2022 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed on public streets, alleys, roads, sidewalks or highways when:

(A) A temporary permit has been issued pursuant to K.S.A. 41-1201 or 41-2703, and amendments thereto, for such an event;

(B) a caterer's licensee has provided the required notification for a catered event pursuant to K.S.A. 41-2643, and amendments thereto; or

(C) a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment licensee has been authorized to extend its licensed premises pursuant to K.S.A. 41-2608, and amendments thereto.

(3) Consumption of alcoholic liquor on public streets, alleys, roads, sidewalks or highways must be approved, by ordinance or resolution, by

the local governing body of any city, county or township where such consumption will occur. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any time.

(4) No person shall remove any alcoholic liquor from inside the boundaries of an event as designated by the governing body of any city, county or township, from the boundaries of a catered event or from the extended licensed premises of a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment. Such boundaries shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed.

(b) Alcoholic liquor may be consumed within common consumption areas designated by a city or county on public streets, alleys, roads, sidewalks or highways pursuant to K.S.A. 41-2659, and amendments thereto, except that no alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways within a common consumption area. Further, no person shall remove any alcoholic liquor from inside the boundaries of the common consumption area which shall be clearly designated by a physical barrier.

(c) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or 41-354, and amendments thereto;

(6) on the premises of an unlicensed business as authorized pursuant to subsection (j); or

(7) within a common consumption area established pursuant to K.S.A. 41-2659, and amendments thereto.

(d) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, within boundaries that have been marked with a three-dimensional barrier, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under K.S.A. 41-308a(e), and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer that is sold during the days of the Kansas state fair, or as authorized by the Kansas state fair board, by the holder of a temporary permit in accordance with the provisions of K.S.A. 41-1201(g), and amendments thereto; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(10) On the premises of any land or waters owned or managed by the department of wildlife, ~~and parks and tourism~~, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

(11) On property exempted from this subsection pursuant to subsection (e), (f), (g), (h) or (i).

(12) On the premises of the state capitol building or on its surrounding premises during an official state function of a nonpartisan nature that has been approved by the legislative coordinating council.

(13) On premises of a common consumption area established by K.S.A. 41-2659, and amendments thereto.

(e) Any city may exempt, by ordinance, from the provisions of subsection (d) specified property the title of which is vested in such city.

(f) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (d) specified property the title of which is vested in such county.

(g) The state board of regents may exempt from the provisions of subsection (d) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of regents of Washburn university may exempt from the provisions of subsection (d) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) The board of trustees of a community college may exempt from the provisions of subsection (d) specified property that is under the control of such board and is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(j) (1) An unlicensed business may authorize patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:

(A) Such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;

(B) possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;

(C) the business, or any owner thereof, shall not have had a license issued under either the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and

(D) no charge of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.

(2) It shall be a violation of this section for any unlicensed business to authorize the possession or consumption of alcoholic liquor by a patron of such business when such authorization is not in accordance with the provisions of this subsection.

(3) For the purposes of this subsection, “patron” means a natural person who is a customer or guest of an unlicensed business.

(k) Violation of any provision of this section is ~~a~~ *an unclassified* misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(l) For the purposes of this section, “common consumption area” means the same as that term is defined in K.S.A. 41-2659, and amendments thereto.

Sec. 108. K.S.A. 47-2101 is hereby amended to read as follows: 47-2101. (a) It shall be unlawful for any person to possess domesticated deer unless such person has obtained from the animal health commissioner a domesticated deer permit. Application for such permit shall be made in writing on a form provided by the commissioner. The permit period shall be for the permit year ending on September 30 following the issuance date.

(b) Each application for issuance or renewal of a permit shall be accompanied by a fee of not more than \$400 as established by the commissioner in rules and regulations.

(c) The animal health commissioner shall adopt any rules and regulations necessary to enforce the provisions of article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ensure compliance with federal requirements and protect domestic animals and wildlife from disease risks related to domestic deer production.

(d) Any person who fails to obtain a permit as prescribed in subsection (a) shall be deemed guilty of a class C nonperson misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

(e) The commissioner may refuse to issue or renew or may suspend or revoke any permit for any one of the following reasons:

(1) Material misstatement in the application for the original permit or in the application for any renewal of a permit;

(2) the conviction of any crime, an essential element of which is misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals;

(3) substantial misrepresentation;

(4) the person who is issued a permit is found to be poaching or illegally obtaining deer; or

(5) the permit holder's willful disregard of any rule or regulation adopted under this section.

(f) Any refusal to issue or renew a permit and any suspension or revocation of a permit under this section shall be in accordance with the provisions of the Kansas administrative procedure act and shall be subject to review in accordance with the Kansas judicial review act.

(g) Each domesticated deer, regardless of age, that enters a premises alive or leaves a premises alive or dead for any purpose, other than for direct movement to a licensed or registered slaughter facility in Kansas, shall have official identification, as prescribed by rules and regulations of the commissioner. Any person who receives a permit issued pursuant to subsection (a) shall keep records of such deer as required by rules and regulations adopted pursuant to this section.

(h) (1) The animal health commissioner or the commissioner's representatives may inspect the premises and records of any person issued a domesticated deer permit, but shall not inspect such premises and records more than once each permit year, unless the commissioner has:

(A) Discovered a violation of article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto; or

(B) received a complaint that such premises is not being operated, managed or maintained in accordance with rules and regulations adopted pursuant to this section.

(2) The commissioner or the commissioner's representatives may inspect unlicensed premises when the commissioner has reasonable grounds to believe that a person is violating the provisions of this section.

(i) The animal health commissioner, on an annual basis, shall transmit to the secretary of wildlife, *and* parks ~~and tourism~~ a current list of persons issued a permit pursuant to this section. The Kansas department of agriculture may request assistance from the department of wildlife, *and* parks ~~and tourism~~ to assist in implementing and enforcing article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto.

(j) All moneys received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the animal disease control fund.

(k) As used in this section:

(1) "Deer" means any member of the family cervidae.

(2) "Domesticated deer" means any member of the family cervidae that was legally obtained and is being sold or raised in a confined area for:

(A) Breeding stock;

- (B) any carcass, skin or part of such animal;
- (C) exhibition; or
- (D) companionship.

Sec. 109. K.S.A. 2022 Supp. 49-408 is hereby amended to read as follows: 49-408. (a) All land affected by surface coal mining and reclamation operations, except as otherwise provided in this act, shall be reclaimed and all operations shall be conducted, in accordance with the requirements and specifications of the national surface mining control and reclamation act of 1977-~~6~~, public law 95-87~~7~~, and federal rules and regulations adopted pursuant thereto. The secretary shall issue such regulations as may be required to conform to the requirements of the national act.

(b) All waters in existence on mined land after reclamation is completed shall become public waters to the extent they may be stocked with fish from the state or federal hatcheries and shall be under the law enforcement jurisdiction of the Kansas department of wildlife, *and parks and tourism*. The owner of the mined land containing such waters shall retain all other rights consistent with the ownership thereof.

Sec. 110. K.S.A. 2022 Supp. 58-3221 is hereby amended to read as follows: 58-3221. As used in this act:

(a) “Generally accepted operation practice” means those safety practices adopted, pursuant to rules and regulations, by the Kansas department of wildlife, *and parks and tourism* and established by a nationally recognized nonprofit membership organization that provides voluntary firearms safety programs ~~which that~~ include training individuals in the safe handling and use of firearms and ~~which that~~ practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges.

(b) “Local unit of government” means a county, city, township or any other political subdivision of the state, or any agency, authority, institution or instrumentality thereof.

(c) “Person” means an individual, proprietorship, partnership, corporation, club, governmental entity or other legal entity.

(d) “Sport shooting range” or “range” means an area designed and operated for the use of archery, rifles, shotguns, pistols, semiautomatic firearms, skeet, trap, black powder or any other similar sport shooting.

Sec. 111. K.S.A. 2022 Supp. 58-3225 is hereby amended to read as follows: 58-3225. The secretary of wildlife, *and parks and tourism* is hereby authorized to adopt rules and regulations necessary to implement the provisions of this act.

Sec. 112. K.S.A. 65-189e is hereby amended to read as follows: 65-189e. The provisions of this act shall not apply to:

(a) Land used exclusively for agricultural purposes as defined in this act or to land under the control of the Kansas department of wildlife, ~~and parks and tourism~~, but the department shall not develop any land under its control without providing water, sewage disposal and refuse disposal facilities that are in conformity with these standards and have submitted plans therefor to the secretary of health and environment and obtained the secretary's approval;

(b) subdivisions platted and approved by the board of county commissioners prior to August 1, 1965, except that this exemption shall not be extended to any construction other than a single family residence and shall not permit violation of any local ordinance or code or the creation of any condition that is detrimental to the health or property of an adjacent property owner; or

(c) land subject to a sanitary code or codes as defined in K.S.A. 19-3701 through 19-3708, and amendments thereto, ~~which that~~ contain provisions for control of the subsurface disposal of sewage, supplying of water from on-lot wells and the disposal of refuse, if the county, city-county or multicounty health department enforcing such sanitary codes shall furnish to the secretary of health and environment such information as the secretary may require concerning the number and types of such sewage, water and refuse facilities installed in the sanitation zone.

Sec. 113. K.S.A. 65-3424b is hereby amended to read as follows: 65-3424b. (a) The secretary shall establish a system of permits for mobile waste tire processors, waste tire processing facilities, waste tire transporters and waste tire collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall adopt rules and regulations establishing standards for mobile waste tire processors, waste tire processing facilities, waste tire collection centers and waste tire transporters. Such standards shall include a requirement that the permittee file with the secretary a bond or other financial assurance in an amount determined by the secretary to be sufficient to pay any costs ~~which that~~ may be incurred by the state to process any waste tires or dispose of any waste tires or processed waste tires if the permittee ceases business or fails to comply with this act.

(c) Any person who contracts or arranges with another person to collect or transport waste tires for storage, processing or disposal shall so contract or arrange only with a person holding a permit from the secretary. Any person contracting or arranging with a person, permitted by the secretary, to collect or transport waste tires for storage, processing or disposal, transfers ownership of those waste tires to the permitted person and the person contracting or arranging with the person holding such permit to collect or transport such tires shall be released from liability

therefor. Any person contracting or arranging with any person, for the collection, transportation, storage, processing, disposal or beneficial use of such tires shall maintain a record of such transaction for a period of not less than three years following the date of the transfer of such tires. Record-keeping requirements for beneficial use shall not apply when tire retailers allow customers to retain their old tires at the time of sale.

(d) The owner or operator of each site that contains a waste tire, used tire or new tire accumulation of any size must control mosquito breeding and other disease vectors.

(e) No person shall own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter unless such person holds a valid permit issued therefor pursuant to subsection (a), except that:

(1) A tire retreading business where fewer than 1,500 waste tires are kept on the business premises may operate a waste tire collection center on the premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles where fewer than 1,500 of these tires are kept on the business premises may operate a waste tire collection center or a waste tire processing facility or both on the premises;

(3) a retail tire-selling business where fewer than 1,500 waste tires are kept on the business premises may operate a waste tire collection center or a waste tire processing facility or both on the premises;

(4) the Kansas department of wildlife, *and* ~~parks and tourism~~ may perform one or more of the following to facilitate a beneficial use of waste tires:

(A) Operate a waste tire collection center on the premises of any state park, state wildlife area or state fishing lake;

(B) operate a waste tire processing facility on the premises of any state park, state wildlife area or state fishing lake; or

(C) act as a waste tire transporter to transport waste tires to any state park, state wildlife area or state fishing lake;

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, may perform one or more of the following to facilitate a beneficial use of waste tires:

(A) Operate an on-site waste tire collection center;

(B) operate an on-site waste tire processing facility; or

(C) act as a waste tire transporter to transport waste tires to the farm, ranch or the feedlot;

(6) a watershed district may perform one or more of the following to facilitate a beneficial use of waste tires:

(A) Operate a waste tire collection center on the premises of a watershed district project or work of improvement;

- (B) operate a waste tire processing facility on the district's property; or
 - (C) act as a waste tire transporter to transport waste tires to the district's property;
 - (7) a person may operate a waste tire collection center if:
 - (A) Fewer than 1,500 used tires are kept on the premises; or
 - (B) 1,500 or more used tires are kept on the premises, if the owner demonstrates through sales and inventory records that such tires have value, as established in accordance with standards adopted by rules and regulations of the secretary;
 - (8) local units of government managing waste tires at solid waste processing facilities or solid waste disposal areas permitted by the secretary under the authority of K.S.A. 65-3407, and amendments thereto, may perform one or more of the following in accordance with the conditions of the solid waste permit:
 - (A) Operate a waste tire collection center on the premises of the permitted facility;
 - (B) operate a waste tire processing facility on the premises of the permitted facility;
 - (C) act as a waste tire transporter to transport waste tires to the permitted facility; or
 - (D) act as a mobile waste tire processor;
 - (9) a person may act as a waste tire transporter to transport:
 - (A) Waste tires mixed with other municipal solid waste;
 - (B) fewer than five waste tires for lawful disposal;
 - (C) waste tires generated by the business, farming activities of the person or the person's employer;
 - (D) waste tires for a beneficial use approved by statute, rules and regulations, or by the secretary;
 - (E) waste tires from an illegal waste tire accumulation to a person who has been issued a permit by the secretary pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto, provided approval has been obtained from the secretary; or
 - (F) five to 50 waste tires for lawful disposal, provided the transportation act is a one time occurrence to abate a legal accumulation of waste tires; or
 - (10) a tire retailer that in the ordinary course of business also serves as a tire wholesaler to other tire retailers may act as a waste tire transporter to transport waste tires from those retailers back to a central location owned or operated by the wholesaler for consolidation and final disposal or recycling.
- (f) All fees collected by the secretary pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such re-

mittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the waste tire management fund.

Sec. 114. K.S.A. 65-5703 is hereby amended to read as follows: 65-5703. (a) There is hereby created the state emergency response commission for the purpose of carrying out all requirements of the federal act and for the purpose of providing assistance in the coordination of state agency activities relating to:

- (1) Chemical emergency training, preparedness, and response; and
- (2) chemical release reporting and prevention, transportation, manufacture, storage, handling and use.

(b) The commission shall consist of:

(1) The following state officers or their appointed designees: The lieutenant governor, the secretary of wildlife, ~~and parks and tourism~~, the secretary of labor, the secretary of agriculture, the secretary of health and environment, the adjutant general, the superintendent of the Kansas highway patrol, the state fire marshal, the secretary of transportation, the attorney general, the chairperson of the state corporation commission, and the governor;

(2) three members appointed by the governor to represent the general public; and

(3) two members appointed by the governor to represent owners and operators of facilities regulated pursuant to this act.

(c) Members of the commission appointed by the governor shall serve for terms of two years. Any vacancy in the office of an appointed member of the commission shall be filled for the unexpired term by appointment by the governor.

(d) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(e) Members of the commission attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(f) The commission shall perform such duties as are specified in the federal act to be performed by such commissions and, in addition thereto, such duties as are specified in the laws of this state or as are deemed necessary and appropriate by the commission to achieving its purposes. In accordance with the requirements of the federal act, the commission shall establish local planning districts, subject to approval by the secretary of health and environment and the adjutant general, and shall appoint a local planning committee for each such district. Local planning committees shall perform such duties as are specified in the federal act to be performed by such committees, and in addition thereto, such duties as are

assigned by the commission or by any member of the commission acting on behalf of or at the direction of the commission, or as are deemed necessary and appropriate by each such committee to achieving its purposes. The duties of the commission and the local planning committees shall be performed in accordance with rules and regulations adopted pursuant to this act.

Sec. 115. K.S.A. 68-406 is hereby amended to read as follows: 68-406. (a) The secretary of transportation shall designate, adopt and establish and may lay out, open, relocate, alter, vacate, remove, redesignate and reestablish highways in every county in the state, the total mileage of which shall not exceed 10,000 miles. The total mileage of such highways in each county shall be not less than the sum of the north to south and east to west diameters of the county. The highways so designated shall connect the county seats and principal cities and market centers, and all such highways, including bridges and culverts thereon, shall comprise the state highway system. The secretary of transportation shall make such revisions, classifications or reclassifications in the state highway system as are found on the basis of engineering and traffic study to be necessary, and such revisions, classifications or reclassifications may include, after due public hearing, removal from the system of roads ~~which that~~ have little or no statewide significance, and the addition of roads ~~which that~~ have statewide importance and will provide relief for traffic congestion on existing routes on the system. All roads ~~which that~~ have been placed upon the state highway system shall be a part of the state highway system, but changes may be made in the state highway system when the public safety, convenience, economy, classification or reclassification requires such change. The total mileage of the state highway system shall not be extended except by act of the legislature. Highways designated under this section shall be state highways, and all other highways outside of the city limits of cities shall be either county roads or township roads as provided for by law. The state highway system thus designated shall be constructed, improved, reconstructed and maintained by the secretary of transportation from funds provided by law.

(b) In addition to highways of the state highway system, the secretary of transportation shall designate in those cities on such system certain streets as city connecting links. "City connecting link" means a routing inside the city limits of a city ~~which that~~:

- (1) Connects a state highway through a city;
- (2) connects a state highway to a city connecting link of another state highway;
- (3) is a state highway ~~which that~~ terminates within such city;
- (4) connects a state highway with a road or highway under the jurisdiction of the Kansas turnpike authority; or

(5) begins and ends within a city's limits and is designated as part of the national system of interstate and defense highways.

(c) The secretary of transportation may mark and maintain existing roads as detours, but detour roads shall not be a part of the state highway system, except that such roads shall be marked and maintained by the secretary of transportation only until that portion of the state highway system for which such road is substituted is completed and open for travel.

(d) The secretary of transportation may use moneys appropriated from the state highway fund for the purchase of right-of-way, construction, improvement, reconstruction and maintenance of a highway over the most direct and practicable routes from state highways to a state lake, a federal lake or reservoir established by federal authority, any property managed or controlled by the Kansas department of wildlife, *and parks and tourism*, national monuments and national historical sites, military reservations, motor carrier inspection stations, approaches and connections within an urban area, as defined by federal highway laws, places of major scenic attractions which possess unusual historical interest, as defined by ~~subsections (1) and (2) of K.S.A. 76-2018(1) and (2)~~, and amendments thereto, on which the state now holds or may hereafter hold a long-term lease, a state institution, from the city limits of the nearest city to a state institution, a state-owned natural and scientific preserve, as defined by ~~subsection (b) of K.S.A. 74-6603(b)~~, and amendments thereto, or such road or roads located within the boundaries of a state park and not presently maintained by a federal agency as shall be designated by the secretary of transportation. Such highways or roads shall not be a part of the state highway system, and the secretary of transportation is not required to plan, design or construct such highways or roads in conformity with the standards applicable to the state highway system.

(e) The secretary of transportation may make reroutings of any portion of the state highway system if such rerouting is required in writing by the United States department of transportation of the federal highway administration before it will permit federal funds to be used thereon. The secretary of transportation shall have control and regulation for purposes of posting speed limits and establishing access and egress facilities on any and all portions of streets and roads ~~which that~~ are, or have been, a part of the state highway system, and ~~which that~~ have been or may be, placed inside of the limits of an incorporated city by the creation of a new municipality or by the extension of the limits or boundaries of any existing municipality.

(f) Except pursuant to article 21 of chapter 68 of Kansas Statutes Annotated, *and amendments thereto*, only the secretary of transportation may authorize temporary closing of any part of the state highway system by any person for any purpose in the interest of the state. Every authoriza-

tion granted under this subsection shall be granted subject to conditions specified by the secretary to provide for:

- (1) Proper detours, signing and markings;
- (2) timing ~~which~~ *that* will not unreasonably inconvenience the public; and

(3) such additional conditions as are appropriate to avoid unreasonable risk of injury to any person. Such requests shall be made in writing and submitted to the secretary at least five days prior to the closing date. In emergencies, temporary closing may be authorized by the secretary by oral communications. The secretary may waive all or any part of the notice otherwise required by this subsection.

(g) Except as provided in subsection ~~(g)~~ (h), any person failing or neglecting to comply with the provisions of this subsection, upon conviction, shall be guilty of a nonperson unclassified misdemeanor.

~~(g)~~(h) In cases of sudden emergency, temporary closing of any part of the state highway system may be authorized by order of a person designated by the board of county commissioners for an area outside of any city or a person designated by the governing body of a city for an area within such city. In such cases of sudden emergency the person authorizing such closing shall inform the secretary of transportation thereof as soon as practicable and obtain the authorization of the secretary for any additional time thereafter for such closing.

Sec. 116. K.S.A. 74-134 is hereby amended to read as follows: 74-134. On July 1, 1988, all books, records and other property of the joint council on recreation abolished by K.S.A. 74-131, and amendments thereto, are hereby transferred to the custody of the Kansas department of wildlife, ~~and parks and tourism.~~

Sec. 117. K.S.A. 74-5,133 is hereby amended to read as follows: 74-5,133. (a) (1) There is hereby established in the state treasury the Arkansas river gaging fund, which shall be administered by the secretary of agriculture. All expenditures from the Arkansas river gaging fund shall be for the operation and maintenance of:

(A) The gages along the Arkansas river necessary to manage the river under the Arkansas river compact; and

(B) the stateline groundwater gage sites in the Arkansas river basin necessary to manage the quantity and quality of such groundwater.

(2) After all expenditures are made during the fiscal year for the purposes listed in paragraph (1), then, expenditures shall be made in accordance with the following priorities and subject to the expenditure limitations prescribed therefor:

(A) First, any remaining moneys authorized to be expended from the fund for the fiscal year shall be expended for the purposes of livestock market reporting in an amount not to exceed \$20,000 in a fiscal year; and

(B) second, if there are any remaining moneys authorized to be expended from the fund for the fiscal year after the expenditures for live-stock market reporting, then expenditures shall be made from the fund for the purpose of funding the bluestem pasture report in an amount not to exceed \$5,000.

(3) All expenditures from the Arkansas river gaging fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or the designee of the secretary of agriculture.

(b) All moneys received as royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray and Ford counties, except those moneys arising from leases on lands under the control of the secretary of wildlife, ~~and parks and tourism~~ as provided by K.S.A. 32-854, and amendments thereto, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the Arkansas river gaging fund. During each fiscal year, when the total amount of moneys credited to the fund is equal to \$95,000, no further moneys shall be credited to the fund. The remainder of the moneys received for such royalties for such fiscal year shall be credited to the state general fund.

Sec. 118. K.S.A. 74-2622 is hereby amended to read as follows: 74-2622. (a) (1) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of 24 members, of whom 13 shall be appointed as follows:

~~(1)~~(A) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority;

~~(2)~~(B) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal

water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party;

~~(3)(C)~~ one member shall be appointed by the president of the senate for a term of two years; and

~~(4)(D)~~ one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, the state biologist, the chief engineer of the division of water resources of the Kansas department of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife, ~~and parks and tourism~~, the administrative officer of the state conservation commission, the secretary of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection ~~(a)(2)~~ (a)(1)(B) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term

by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects ~~which~~ *that* it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director:

(A) Any contract entered into pursuant to the state water plan storage act;

(B) any amendments to the state water plan or the state water planning act; and

(C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water re-

sources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to ~~subsection (e) of K.S.A. 74-2608(c)~~, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.

Sec. 119. K.S.A. 74-3322 is hereby amended to read as follows: 74-3322. (a) The state forestry, fish and game commission is hereby empowered and directed to convey by quitclaim deed, without consideration, to the city of Oberlin, Kansas, all of the following described real estate located in Decatur county, Kansas, to wit:

All that part of the E1/2 SE1/4 Sec. 31 and all that part of the W1/2 W1/2 SW1/4 Sec. 32, Twp. 2, South, Range 28, West 6th P.M. lying North of the C.B.&Q. Railroad Right-of-Way. Containing 112 acres more or less.

The SW1/4 NW1/4 Sec. 32, Twp. 2 South, Range 28 West 6th P.M. Also a tract of land out of the SW1/4 NE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. more particularly described as follows: Beginning at the southeast corner of the SW1/4 NE1/4 of said Sec. 31, thence north parallel with the East line of Sec. 31, 405 feet, thence in a southwesterly direction $114^{\circ}13'$ a distance of 1003 feet to intersect the south line of said NE1/4, this point being 396 feet east of the southwest corner of the NE1/4, thence east along the south line of the NE1/4 924 feet to place of beginning.

The E1/2 NE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. except a tract of land described as follows: Beginning at a point 1072.5 feet west of the Northeast corner of the NE1/4 thence south parallel with the East line of the NE1/4 1485 feet, thence West at right angles 247.5 feet, thence north parallel with the east line of said NE1/4 1485 feet, thence East at right angles and along the north line of said NE1/4 247.5 feet to place of beginning; total acreage conveyed 116.1 acres more or less.

A tract of land out of the NW1/4 SE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. more particularly described as follows: Commencing at the Northeast corner of the NW1/4 SE1/4 Sec. 31, Twp. 2 South, Range 28, West 6th P.M., thence west along the north line of said NW1/4 SE1/4 56 rods; thence south at right angles 70 rods, thence east at right angles 56

rods, thence north along the East line of said NW1/4 SE1/4 70 rods to the place of beginning, containing about 24 1/2 acres more or less.

A tract of land out of the NW1/4 SE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. more particularly described as follows: Beginning at the Northwest corner of the SE1/4 of said Sec. 31, thence East along said half section line 24 rods, thence south at right angles 70 rods, thence West at right angles and parallel with the North line of said SE1/4 24 rods, thence North along the half section line 70 rods to place of beginning. Containing 10.5 acres more or less.

NW1/4 NW1/4; E1/2 NW1/4; W1/2 W1/2 NE1/4 Sec. 32, Twp. 2, Range 28, West of the 6th P.M.

A tract of land described as follows: Beginning at the Southwest corner of the SW1/4 of Sec. 29, Twp. 2 South, Range 28 West 6th P.M. thence North along and upon the West line of said SW1/4 95 feet, thence East at right angles and parallel with the South line of said SW1/4 575 feet, thence in a northeasterly direction at an angle of 27°15' left 490 feet, thence North at an angle of 29°15' left 639 feet, thence East at an angle of 46°30' right 1288 feet to the East line of said SW1/4, thence South along and upon the East line of said SW1/4 855 feet to the Southeast corner of the SW1/4; thence West along and upon the South line of said SW1/4 2640 feet to place of beginning.

A tract of land out of the SE1/4 Sec. 29, Twp. 2 South, Range 28, West 6th P.M. more particularly described as follows: Beginning at the Southwest corner of the SE1/4 of Sec. 29, in Twp. 2, Range 28, West 6th P.M. thence North along the half section line 855 feet, thence East at right angle and parallel with South line of said Section 1019 feet, thence South at right angle and parallel with East line of said Section 855 feet, thence West along the South line of said section 1019 feet to place of beginning, containing 20 acres more or less.

A tract of land out of the NE1/4 of Sec. 32, Twp. 2, Range 28 West of the 6th P.M. described as follows: Beginning at a point 1224.7 feet north of the southeast corner of the W1/2 W1/2 NE1/4 of said Sec. 32, thence northeasterly at an angle of 59°23' right, 170.6 feet, thence north at an angle of 61°54' left, 123.3 feet, thence northwesterly at an angle of 25°48' left, 298.5 feet, to the east line of the W1/2 W1/2 NE1/4 of said Sec. 32, thence south 473.9 feet, along said line to point of beginning. Containing .98 acre more or less.

(b) The instruments of conveyance of such real estate authorized by this act shall be executed in the name of the state forestry, fish and game commission by its chairman and secretary.

(c) ~~As soon as is practicable after the effective date of this act, The secretary of wildlife, and parks and tourism shall convey by quitclaim deed, without consideration, any title or interest of the Kansas depart-~~

ment of wildlife; ~~and parks and tourism~~ in the property described in subsection (a).

Sec. 120. K.S.A. 74-4722 is hereby amended to read as follows: 74-4722. (a) The Kansas department of wildlife; ~~and parks and tourism~~ shall purchase vessel liability insurance for the protection and benefit of the state, the department and officers, agents and employees of the department responsible for the operation of vessels owned, operated, maintained or controlled by the department, and of persons while riding in or upon such vessels.

(b) As used in this section, the term “vessel” includes motorized and nonmotorized vessels, and other methods of aquatic transportation used by the department.

Sec. 121. K.S.A. 74-4911f is hereby amended to read as follows: 74-4911f. (a) Subject to procedures or limitations prescribed by the governor, any person who is not an employee and who becomes a state officer may elect to not become a member of the system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. Such election shall be irrevocable. If such election is not filed by such state officer, such state officer shall be a member of the system.

(b) Any such state officer who is a member of the Kansas public employees retirement system, on or after the effective date of this act, may elect to not be a member by filing an election with the office of the retirement system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. If such election is not filed by such state officer, such state officer shall be a member of the system.

(c) Subject to limitations prescribed by the board, the state agency employing any employee who has filed an election as provided under subsection (a) or (b) and who has entered into an employee participation agreement, as provided in K.S.A. 74-49b10, and amendments thereto, for deferred compensation pursuant to the Kansas public employees deferred compensation plan shall contribute to such plan on such employee's behalf an amount equal to 8% of the employee's salary, as such salary has been approved pursuant to K.S.A. 75-2935b, and amendments thereto, or as otherwise prescribed by law. With regard to a state officer who is a member of the legislature who has retired pursuant to the Kansas public employees retirement system and who files an election as provided in this section, employee's salary means per diem compensation as provided by law as a member of the legislature.

(d) As used in this section and K.S.A. 74-4927k, and amendments thereto, “state officer” means the secretary of administration, secretary for aging and disability services, secretary of commerce, secretary of cor-

rections, secretary of health and environment, secretary of labor, secretary of revenue, secretary for children and families, secretary of transportation, secretary of wildlife, ~~and parks and tourism~~, superintendent of the Kansas highway patrol, secretary of agriculture, executive director of the Kansas lottery, executive director of the Kansas racing commission, president of the Kansas development finance authority, state fire marshal, state librarian, securities commissioner, adjutant general, members and chief hearing officer of the state board of tax appeals, members of the state corporation commission, any unclassified employee on the staff of officers of both houses of the legislature, any unclassified employee appointed to the governor's or lieutenant governor's staff, any person employed by the legislative branch of the state of Kansas, other than any such person receiving service credited under the Kansas public employees retirement system or any other retirement system of the state of Kansas therefor, who elected to be covered by the provisions of this section as provided in K.S.A. 46-1302(e), and amendments thereto, or who is first employed on or after July 1, 1996, by the legislative branch of the state of Kansas and any member of the legislature who has retired pursuant to the Kansas public employees retirement system.

(e) The provisions of this section shall not apply to any state officer who has elected to remain eligible for assistance by the state board of regents as provided in K.S.A. 74-4925(a), and amendments thereto.

Sec. 122. K.S.A. 74-5005 is hereby amended to read as follows: 74-5005. The department shall be the lead agency of the state for economic development of commerce through the promotion of business, industry ~~and~~ trade *and tourism* within the state. In general, but not by way of limitation, the department shall have, exercise and perform the following powers and duties:

(a) To assume central responsibility for implementing all facets of a comprehensive, long-term, economic development strategy and for coordinating the efforts of both state agencies and local economic development groups as they relate to that objective;

(b) to coordinate the implementation of the strategy with all other state and local agencies and offices and state educational institutions which do research work, develop materials and programs, gather statistics, or which perform functions related to economic development; and such state and local agencies and offices and state educational institutions shall advise and cooperate with the department in the planning and accomplishment of the purposes of this act;

(c) to advise and cooperate with all federal departments, research institutions, educational institutions and agencies, quasi-public professional societies, private business and agricultural organizations and associations, and any other party, public or private, and to call upon such parties for

consultation and assistance in their respective fields of interest, to the end that all up-to-date available technical advice, information and assistance be gathered for the use of the department, the governor, the legislature and the people of this state;

(d) to enter into agreements necessary to carry out the purposes of this act;

(e) to conduct an effective business information service, keeping up-to-date information on such things as manufacturing industries, labor supply and economic trends in employment, income, savings and purchasing power within the state, utilizing the services and information available from the division of the budget of the department of administration;

(f) to support a coordinated program of scientific and industrial research with the objective of developing additional uses of the state's natural resources, agriculture, agricultural products, new and better industrial products and processes, and the best possible utilization of the raw materials in the state; and to coordinate this responsibility with the state educational institutions, with all state and federal agencies, and all public and private institutions within or outside the state, all in an effort to assist and encourage new industries or expansion of existing industries through basic research, applied research and new development;

(g) to maintain and keep current all available information regarding the industrial opportunities and possibilities of the state, including raw materials and by-products; power and water resources; transportation facilities; available markets and the marketing limitations of the state; labor supply; banking and financing facilities; availability of industrial sites; and the advantages the state and its particular sections have as industrial locations; and such information shall be used for the encouragement of new industries in the state and the expansion of existing industries within the state;

(h) to publicize information and the economic advantages of the state ~~which~~ *that* make it a desirable place for commercial and industrial operations and a good place in which to live;

(i) to establish a clearinghouse for the collection and dissemination of information concerning the number and location of public and private postsecondary vocational and technical education programs in areas critical to economic development;

(j) to acquaint the people of this state with the industries within the state and encourage closer cooperation between the farming, commercial and industrial enterprises and the people of the state;

(k) to participate in economic development and planning assistance programs of the federal government to political subdivisions;

(l) to assist counties and cities in industrial development through the establishment of industrial development corporations, including site surveys, small business administration situations, and render such other

similar assistance as may be required; and in those instances where it is deemed appropriate, to contract with and make a service charge to the county or city involved for such services rendered;

(m) to render assistance to private enterprise on planning problems and site surveys upon request and shall make a reasonable service charge for such services rendered; and any moneys received for services rendered, as provided in this subsection, shall be deposited in the fund and expended therefrom, as provided in subsection (n);

(n) to make agreements with other states and with the United States government, or its agencies, and to accept funds from the federal government, or its agencies, or any other source for research studies, investigation, planning and other purposes related to the duties of the department; and any funds so received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a special revenue fund which is hereby created and shall be known as the "economic development fund" or used in accordance with or direction of the contributing federal agencies; and expenditures from such fund may be made for any purpose in keeping with the responsibilities, functions and authority of the department; and warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers signed by the secretary;

(o) to do other and further acts as shall be necessary and proper in fostering and promoting the industrial development and economic welfare of the state;

(p) to organize, or cause to be organized, an advisory board or boards representing interested groups, including industry, labor, agriculture, scientific research, the press, the professions, industrial associations, civic groups, etc.; and such board or boards shall advise with the department as to its work and the department shall, as far as practicable, cooperate with such board or boards, and secure the active aid thereof in the accomplishment of the aims and objectives of the department;

(q) to perform the duties imposed under the Kansas venture capital company act;

(r) to serve as the central agency and clearinghouse to collect and disseminate ideas and information bearing on local planning problems; and, in so doing, the department, upon request of the board of county commissioners of any county or the governing body of any city in the state, may make a study and report upon any planning problem of such county or city submitted to it;

(s) to disseminate to the public information concerning economic development programs available in the state, regardless of whether such programs are administered by the department or some other agency and

the department shall make available audio-visual and written materials describing the economic development programs to local chambers of commerce, economic development organizations, banks and public libraries and shall take other measures as may be necessary to effectuate the purpose of this subsection;

(t) to perform the duties imposed under the individual development account program act, K.S.A. 74-50,201 through 74-50,208, and amendments thereto; ~~and~~

(u) except as otherwise provided by law, perform the duties and carry out the purposes of K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto; *and*

(v) *to encourage and promote the traveling public to visit this state by publicizing information as to the recreational, historic and natural advantage of the state and its facilities for transient travel and to contract with organizations for the purpose of promoting tourism within the state, and the department may request other state agencies, including, but not limited to, the Kansas water office, the Kansas department of transportation and the Kansas department of wildlife and parks, for assistance and all such agencies shall coordinate information and their respective efforts with the department to most efficiently and economically carryout the purpose and intent of this subsection.*

Sec. 123. K.S.A. 2022 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) “Training center” means the law enforcement training center within the university of Kansas, created by K.S.A. 74-5603, and amendments thereto.

(b) “Commission” means the Kansas commission on peace officers’ standards and training, created by K.S.A. 74-5606, and amendments thereto, or the commission’s designee.

(c) “Chancellor” means the chancellor of the university of Kansas, or the chancellor’s designee.

(d) “Director of police training” means the director of police training at the law enforcement training center.

(e) “Director” means the executive director of the Kansas commission on peace officers’ standards and training.

(f) “Law enforcement” means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(g) (I) “Police officer” or “law enforcement officer” means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. ~~Such terms shall include~~

(2) “Police officer” or “law enforcement officer” includes, but is not be limited to: The sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff’s office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858, and amendments thereto; conservation officers of the Kansas department of wildlife, ~~and parks and tourism~~; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents designated by the secretary of revenue pursuant to K.S.A. 75-5157, and amendments thereto; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503, and amendments thereto; special agents of the department of corrections; special investigators designated by the secretary of labor; and law enforcement officers appointed by the adjutant general pursuant to K.S.A. 48-204, and amendments thereto. ~~Such terms shall also include~~; railroad policemen appointed pursuant to K.S.A. 66-524, and amendments thereto; school security officers designated as school law enforcement officers pursuant to K.S.A. 72-6146, and amendments thereto; the manager and employees of the horsethief reservoir benefit district pursuant to K.S.A. 82a-2212, and amendments thereto; and the director of the Kansas commission on peace officers’ standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer. ~~Such terms shall~~ “Police officer” or “law enforcement officer” includes any officer appointed or elected on a provisional basis.

(2) “Police officer” or “law enforcement officer” does not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official’s elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the secretary of corrections other than a special agent; any employee of the secretary for children and families; any deputy conservation officer of the Kansas department of wildlife, ~~and parks and tourism~~; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the du-

ties of such person's office or employment. ~~Such term shall include any officer appointed or elected on a provisional basis.~~

(h) "Full-time" means employment requiring at least 1,000 hours of law enforcement related work per year.

(i) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of law enforcement related work per year.

(j) "Misdemeanor crime of domestic violence" means a violation of domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2022 Supp. 21-5414, and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed against a person with whom the offender is involved or has been involved in a "dating relationship" or is a "family or household member" as defined in K.S.A. 2022 Supp. 21-5414, and amendments thereto, at the time of the offense.

(k) "Auxiliary personnel" means members of organized nonsalaried groups who operate as an adjunct to a police or sheriff's department, including reserve officers, posses and search and rescue groups.

(l) "Active law enforcement certificate" means a certificate that attests to the qualification of a person to perform the duties of a law enforcement officer and that has not been suspended or revoked by action of the Kansas commission on peace officers' standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

Sec. 124. K.S.A. 74-6614 is hereby amended to read as follows: 74-6614. (a) There is hereby created the natural and scientific areas advisory board. The advisory board shall be attached to the state biological survey and shall be within the survey as a part thereof. All budgeting, purchasing and related management functions of the advisory board shall be administered under the direction and supervision of the state biological survey. All vouchers for expenditures and all payrolls of the advisory board shall be approved by the state biological survey. The board shall consist of 11 members designated by the following: The state biologist; the secretary of wildlife, ~~and parks and tourism~~; the state forester; the state geologist; the director of the state historical society; the director of the state water office; the chairperson of the nongame wildlife advisory council; the secretary of health and environment; a member of the house of representatives appointed by the speaker of the house; a member of the senate appointed by the president of the senate; a representative of the governor.

(b) Whenever a vacancy on the board shall occur by death, resignation or otherwise of any member so appointed, the responsible appointor shall fill the same by appointment.

Sec. 125. K.S.A. 74-7901 is hereby amended to read as follows: 74-7901. There is hereby created a Kansas wildlife arts council which shall be composed of five members. One member shall be a member of the Kansas wildlife, *and* parks ~~and tourism~~ commission appointed by such commission, one member shall be a member of the Kansas creative arts industries commission appointed by such commission, one member shall be the director of the Fort Hays state university Sternberg museum, and two members shall be from the public at large appointed by the president of Fort Hays state university. The director of the Fort Hays state university Sternberg museum shall be chairperson of the council, and personnel of the Fort Hays state university Sternberg museum shall provide such staff and clerical services as the council may require.

Sec. 126. K.S.A. 74-9201 is hereby amended to read as follows: 74-9201. (a) There is hereby established the Kansas film services commission. The commission shall consist of 19 voting members as follows:

(1) One member of the senate appointed by the president of the senate;
(2) one member of the senate appointed by the minority leader of the senate;

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

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

(5) fifteen members appointed by the governor.

(b) Of the members appointed by the governor, one shall be appointed from each United States congressional district. All members appointed by the governor shall be appointed for terms of three years, except that of the members first appointed, five shall be appointed for one-year terms, five shall be appointed for two-year terms and five shall be appointed for three-year terms. The governor shall designate the term for which each of the members first appointed shall serve.

(c) In addition to the voting members of the commission, six members of the commission shall serve ex officio: The secretary of commerce, the secretary of transportation, the secretary of wildlife, *and* parks ~~and tourism~~, the secretary of health and environment, the executive director of the Kansas arts commission and the secretary of the state historical society. Each ex officio member of the commission may designate an officer or employee of the state agency of the ex officio member to serve on the commission in place of the ex officio member. The ex officio members of the commission, or their designees, shall be nonvoting members of the commission and shall provide information and advice to the commission. In addition to the voting and ex officio members of the commission, the governor may appoint such number of representatives of the film industry to nonvoting membership on the commission as may be recommended by the secretary of commerce.

~~(b)~~(d) Legislative members shall be appointed for terms coinciding with the terms for which such members are elected. All members appointed to fill vacancies in the membership of the commission and all members appointed to succeed members appointed to membership on the commission shall be appointed in like manner as that provided for the original appointment of the member succeeded. All members appointed to fill vacancies of a member of the commission appointed by the governor shall be appointed to fill the unexpired term of such member.

~~(e)~~(e) The members of the commission shall elect annually a chairperson and vice-chairperson for the commission from among its members. The commission shall meet at least four times each year at the call of the chairperson of the commission. Ten voting members of the commission shall constitute a quorum.

~~(d)~~(f) Members of the commission who are not legislators shall receive mileage, tolls and parking as provided in K.S.A. 75-3223, and amendments thereto, for attendance at any meeting of the commission or any subcommittee meeting authorized by the commission. Legislative members of the commission shall be paid amounts provided in ~~subsection (e) of K.S.A. 75-3223(e)~~, and amendments thereto, for attendance at any meeting of the commission or any subcommittee meeting authorized by the commission.

Sec. 127. K.S.A. 75-1253 is hereby amended to read as follows: 75-1253. (a) Whenever it becomes necessary in the judgment of the secretary of administration or in any case when the total cost of a project for the construction of a building or for major repairs or improvements to a building for a state agency is expected to exceed \$1,000,000, the secretary of administration shall convene a negotiating committee. The state building advisory commission shall prepare a list of at least three and not more than five firms ~~which~~ *that* are, in the opinion of the state building advisory commission, qualified to serve as project architect, engineer or land surveyor for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation.

(b) The secretary of administration may combine two or more separate projects for the construction of buildings or for major repairs or improvements to buildings for state agencies, for the purpose of procuring architectural, engineering or land surveying services for all such projects from a single firm. In each case, the combined projects shall be construed to be a single project for all purposes under the provisions of K.S.A. 75-1250 through 75-1267, and amendments thereto.

(c) (1) This section shall not apply to any repetitive project with a standard plan that was originally designed by the secretary of administration or an agency architect pursuant to K.S.A. 75-1254(a)(2) and (3), and amend-

ments thereto. In such a case, the secretary of administration or the agency architect may provide architectural services for the repetitive project.

(2) “Repetitive project” means a project ~~which~~ *that* uses the same standard design as was used for a project constructed previously, including, but not limited to, sub-area shops and salt domes of the department of transportation and showers and toilet buildings of the Kansas department of wildlife, *and* parks ~~and tourism~~. The plans for the project may be modified as required for current codes, operational needs or cost control. The total floor area of the project may be increased by an area of not more than 25% of the floor area of the originally constructed project, except that not more than 25% of the linear feet of the exterior and interior walls may be moved for such increase. A project shall not be considered to be repetitive if it has been over four years between the substantial completion of the last project using the design plans and the appropriation of funds for the proposed project.

Sec. 128. K.S.A. 75-2720 is hereby amended to read as follows: 75-2720. (a) The state historic sites board of review shall have the power and duty to:

(1) Subject to the provisions of subsection (b), approve nominations to the state and national registers of historic places.

(2) Review the state survey of historic properties undertaken in accordance with the provisions of this act.

(3) Review the content of the state preservation plan developed in accordance with the provisions of this act.

(4) Approve the removal of properties from the state register of historic places.

(5) Recommend the removal of properties from the national register of historic places.

(6) Otherwise act in an advisory capacity to the state historic preservation agency.

(7) Upon request, to advise the legislature concerning matters relating to historic properties and historic preservation.

(8) Elect a chairman and vice-chairman and establish such rules of procedure as it deems necessary.

(b) The state historic sites board of review shall not consider or approve any nomination of historic property located in an unincorporated area of any county to either the state register of historic places or the national register of historic places unless owners of land located within 500 feet of the boundaries of a proposed historic property have been notified of the time and place of the board meeting at which such nomination is to be considered or approved. Notification shall be by mail or publication notice. Publication notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in each coun-

ty in which all, or any part, of the proposed historic property is located. The last publication shall be at least 30 days, but not more than 50 days, prior to the date of such board meeting. Whenever the state historic sites board of review submits a notice to a newspaper for publication under this subsection, such board shall, at the same time, also submit a copy of such notice to the secretary of wildlife, ~~and parks and tourism.~~

Sec. 129. K.S.A. 75-2935 is hereby amended to read as follows: 75-2935. The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

- (a) Chosen by election or appointment to fill an elective office;
- (b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;
- (c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;
- (d) all employees in the office of the governor;
- (e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;
- (f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection ~~(1)(f)~~ shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; As used in this subsection ~~(1)(f)~~, "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes ~~which~~ *that* are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of

Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

(g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;

(h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;

(j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the classified or unclassified service as provided in K.S.A. 75-711, and amendments thereto;

(k) all employees of courts;

(l) client, patient and inmate help in any state facility or institution;

(m) all attorneys for boards, commissions and departments;

(n) the secretary and assistant secretary of the Kansas state historical society;

(o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the Kansas department for aging and disability services;

(p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;

(q) student employees enrolled in public institutions of higher learning;

(r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection ~~(1)(r)~~ shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;

(s) all officers and employees in the office of the secretary of state;

(t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary for aging and disability services, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the

secretary of revenue, the secretary for children and families, the secretary of transportation, *and* the secretary of wildlife, *and* parks ~~and tourism~~ *and* the commissioner of juvenile justice;

(u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;

(v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;

(w) one public information officer and one chief attorney for the following: The department of administration, the Kansas department for aging and disability services, the department of agriculture, the department of commerce, the department of corrections, the department of health and environment, the department of labor, the department of revenue, the Kansas department for children and families, the department of transportation, *and* the Kansas department of wildlife, *and* parks ~~and tourism~~ *and* the commissioner of juvenile justice;

(x) if designated by the appointing authority, persons in newly hired positions, including any employee who is rehired into such position and any current state employee who voluntarily transfers into, or is voluntarily promoted or demoted into such position, on and after July 1, 2015, in any state agency;

(y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;

(z) specifically designated by law as being in the unclassified service;

(aa) any position that is classified as a position in the information resource manager job class series, that is the chief position responsible for all information resources management for a state agency, and that becomes vacant on or after the effective date of this act. Nothing in this section shall affect the classified status of any employee in the classified service who is employed on the date immediately preceding the effective date of this act in any position that is a classified position in the information resource manager job class series and the unclassified status as prescribed by this subsection shall apply only to a person appointed to any such position on or after the effective date of this act that is the chief position responsible for all information resources management for a state agency;

(bb) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 76-715a, and amendments thereto; and

(cc) notwithstanding the provisions of K.S.A. 22-4524, 32-802, 39-1911, 44-510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-2878, 65-6103, 73-1210a, 73-1234, 74-515b, 74-561, 74-569, 74-631, 74-1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-2906a, 74-5014, 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501, 74-

8704, 74-8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-3148, 75-3702c, 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157, 75-5309, 75-5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-5910, 75-7028, 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-12a05, 76-12a08, 76-12a16, 76-3202 and 82a-1205 and K.S.A. 39-1911, and amendments thereto, any vacant position within the classified service may be converted by the appointing authority to an unclassified position.

(2) The classified service comprises all positions now existing or hereafter created ~~which~~ *that* are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools ~~which~~ *that* so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and re-employment ~~which~~ *that* may be different from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

(5) On and after the effective date of this act, any state agency that has positions in the classified service within the Kansas civil service act to satisfy any requirement of maintaining personnel standards on a merit basis pursuant to federal law or the rules and regulations promulgated thereunder by the federal government or any agency thereof, shall adopt a binding statement of agency policy pursuant to K.S.A. 77-415, and amendments thereto, to satisfy such requirements if the appointing authority has made any such position unclassified.

Sec. 130. K.S.A. 75-3339 is hereby amended to read as follows: 75-3339. (a) The division of services for the blind of the Kansas department for children and families shall:

(1) Make surveys of concession vending opportunities for blind persons on state, county, city and other property;

(2) make surveys throughout the state of Kansas of industries with a view to obtaining information that will assist blind persons to obtain employment;

(3) make available to the public, especially to persons and organizations engaged in work for the blind, information obtained as a result of such surveys;

(4) issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on state, county, city and other property for the vending of foods, beverages and other such articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the licensing agency; and

(5) take such other steps, including the adoption of rules and regulations, as may be necessary and proper to carry out the provisions of this act.

(b) The division of services for the blind, in issuing each such license for the operation of a vending facility, shall give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by such division if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such division. Such licenses shall be issued only to applicants who are blind as defined by ~~subsection (b) of K.S.A. 75-3338(b)~~, and amendments thereto.

(c) The division of services for the blind, with the approval of the head of the department or agency in control of the maintenance, operation, and protection of the state, county and city or other property on which the vending facility is to be located but subject to rules and regulations prescribed pursuant to the provisions of this act, shall select a location for such vending facility and the type of facility to be provided.

(d) In the design, construction or substantial alteration or renovation of each public building after July 1, 1970, for use by any department, agency or instrumentality of the state of Kansas, except the Kansas department of wildlife, *and* parks ~~and tourism~~ and the Kansas turnpike authority, there shall be included, after consultation with the division of services for the blind a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. No space shall be rented, leased or otherwise acquired for use by any department, agency or instrumentality of the state of Kansas after July 1, 1970, except the Kansas department of wildlife, *and* parks ~~and tourism~~ and the Kansas turnpike authority, unless such space includes, after consultation with the division of services for the blind, a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. All departments, agencies and instrumentalities of the state of Kansas, except the Kansas department of wildlife, *and* parks ~~and tourism~~ and the Kansas turnpike

authority, shall consult with the secretary for children and families or the secretary's designee and the division of services for the blind in the design, construction or substantial alteration or renovation of each public building used by them, and in the renting, leasing or otherwise acquiring of space for their use, to insure that the requirements set forth in this subsection are satisfied. This subsection shall not apply when the secretary for children and families or the secretary's designee and the division of services for the blind determine that the number of people using the property is insufficient to support a vending facility.

Sec. 131. K.S.A. 75-37,121 is hereby amended to read as follows: 75-37,121. (a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in subsection (h). The office shall conduct adjudicative proceedings of any state agency ~~which~~ *that* is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a presiding officer. The office may employ regular part-time personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee ~~must~~ *shall* possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedure act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Kansas department for children and families, ~~juvenile justice authority~~ *department of corrections*, Kansas department for aging and disability services, department of health and environment, Kansas public employees retirement system, Kansas water office, Kansas department of agriculture division of animal health and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife, ~~and parks and tourism~~ and state board of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, Kansas department of agriculture division of conservation, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) ~~which that~~ conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state ~~which that~~ had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative

hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) ~~which~~ *that* conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state ~~which~~ *that* had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) ~~which~~ *that* conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state ~~which~~ *that* had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) ~~which~~ *that* conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state ~~which~~ *that* had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance

with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) ~~which that~~ conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state ~~which that~~ had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

Sec. 132. K.S.A. 75-3907 is hereby amended to read as follows: 75-3907. Except as otherwise provided in this order, on the effective date of this order, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or office ~~which that~~ is abolished by this order, or ~~which that~~ becomes a part of the Kansas department of wildlife, ~~and parks and tourism~~, or the powers, duties and functions of which are transferred to the secretary of wildlife, ~~and parks and tourism~~, and who, in the opinion of the secretary of wildlife, ~~and parks and tourism~~, are necessary to perform the powers, duties and functions of the Kansas department of wildlife, ~~and parks and tourism~~, shall be transferred to, and shall become officers and employees of the department. Any such officer or employee shall retain all retirement benefits and all rights of civil service ~~which that~~ had accrued to or vested in such officer or employee prior to the effective date of this order. The service of each such officer and employee so transferred shall be deemed to have been continuous.

Sec. 133. K.S.A. 75-3908 is hereby amended to read as follows: 75-3908. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The Kansas department of wildlife, ~~and parks and tourism~~ shall succeed to all property, property rights and records ~~which that~~ were used for or

pertain to the performance of the powers, duties and functions transferred to the secretary of wildlife, *and* parks ~~and tourism~~. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer, attachment or abolition of any state agency or office, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

Sec. 134. K.S.A. 75-3910 is hereby amended to read as follows: 75-3910. (a) On the effective date of this order, the balance of all funds appropriated and reappropriated to any of the state agencies abolished by this order is hereby transferred to the Kansas department of wildlife, *and* parks ~~and tourism~~ and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this order, the liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or office abolished by this order, or ~~which that~~ becomes a part of the Kansas department of wildlife, *and* parks ~~and tourism~~ established by this order, or the powers, duties and functions of which are transferred to the secretary of wildlife, *and* parks ~~and tourism~~ provided for by this order, shall be assumed and paid by the Kansas department of wildlife, *and* parks ~~and tourism~~ established by this order.

Sec. 135. K.S.A. 76-463 is hereby amended to read as follows: 76-463. In connection with its duties, the section shall cooperate with the Kansas department of wildlife, *and* parks ~~and tourism~~.

Sec. 136. K.S.A. 77-415 is hereby amended to read as follows: 77-415. (a) K.S.A. 77-415 through 77-438, and amendments thereto, shall be known and may be cited as the rules and regulations filing act.

(b) (1) Unless otherwise provided by statute or constitutional provision, each rule and regulation issued or adopted by a state agency shall comply with the requirements of the rules and regulations filing act. Except as provided in this section, any standard, requirement or other policy of general application may be given binding legal effect only if it has complied with the requirements of the rules and regulations filing act.

(2) Notwithstanding the provisions of this section:

(A) An agency may bind parties, establish policies, and interpret statutes or regulations by order in an adjudication under the Kansas administrative procedure act or other procedures required by law, except that such order shall not be used as precedent in any subsequent adjudication against a person who was not a party to the original adjudication unless the order is:

- (i) Designated by the agency as precedent;
- (ii) not overruled by a court or later adjudication; and

- (iii) disseminated to the public in one of the following ways:
 - (a) Inclusion in a publicly available index, maintained by the agency and published on its website, of all orders designated as precedent;
 - (b) publication by posting in full on an agency website in a format capable of being searched by key terms; or
 - (c) being made available to the public in such other manner as may be prescribed by the secretary of state.

(B) Any statement of agency policy may be treated as binding within the agency if such statement of policy is directed to:

- (i) Agency personnel relating to the performance of their duties.
- (ii) The internal management of or organization of the agency.

No such statement of agency policy listed in clauses (i) and (ii) of this subparagraph may be relied on to bind the general public.

(C) An agency may provide forms, the content or substantive requirements of which are prescribed by rule and regulation or statute, except that no such form may give rise to any legal right or duty or be treated as authority for any standard, requirement or policy reflected therein.

(D) An agency may provide guidance or information to the public, describing any agency policy or statutory or regulatory requirement except that no such guidance or information may give rise to any legal right or duty or be treated as authority for any standard, requirement or policy reflected therein.

(E) None of the following shall be subject to the rules and regulations filing act:

- (i) Any policy relating to the curriculum of a public educational institution or to the administration, conduct, discipline, or graduation of students from such institution.

- (ii) Any parking and traffic regulations of any state educational institution under the control and supervision of the state board of regents.

- (iii) Any rule and regulation relating to the emergency or security procedures of a correctional institution, as defined in ~~subsection (d) of K.S.A. 75-5202(d)~~, and amendments thereto.

- (iv) Any order issued by the secretary of corrections or any warden of a correctional institution under K.S.A. 75-5256, and amendments thereto.

(F) When a statute authorizing an agency to issue rules and regulations or take other action specifies the procedures for doing so, those procedures shall apply instead of the procedures in the rules and regulations filing act.

- (c) As used in the rules and regulations filing act, and amendments thereto, unless the context clearly requires otherwise:

- (1) “Board” means the state rules and regulations board established under the provisions of K.S.A. 77-423, and amendments thereto.

- (2) “Environmental rule and regulation” means:

(A) A rule and regulation adopted by the secretary of agriculture, the secretary of health and environment or the state corporation commission, ~~which~~ *that* has as a primary purpose the protection of the environment; or

(B) a rule and regulation adopted by the secretary of wildlife, ~~and parks and tourism~~ concerning threatened or endangered species of wildlife as defined in K.S.A. 32-958, and amendments thereto.

(3) “Person” means an individual, firm, association, organization, partnership, business trust, corporation, company or any other legal or commercial entity.

(4) “Rule and regulation,” “rule,” and “regulation” means a standard, requirement or other policy of general application that has the force and effect of law, including amendments or revocations thereof, issued or adopted by a state agency to implement or interpret legislation.

(5) “Rulemaking” ~~shall have the meaning ascribed to it~~ *means the same as defined* in K.S.A. 77-602, and amendments thereto.

(6) “Small employer” means any person, firm, corporation, partnership or association that employs not more than 50 employees, the majority of whom are employed within this state.

(7) “State agency” means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

Sec. 137. K.S.A. 2022 Supp. 77-421 is hereby amended to read as follows: 77-421.(a) (1) Except as provided by subsection (a)(2), ~~subsection (a)(3) or subsection (a)(4)~~, prior to the adoption of any permanent rule and regulation or any temporary rule and regulation ~~which that~~ is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration, the attorney general and the director of the budget, the adopting state agency shall give at least 60 days’ notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations established by K.S.A. 77-436, and amendments thereto. The notice shall be provided to the secretary of state and to the chairperson, vice chairperson, ranking minority member of the joint committee and legislative research department and shall be published in the Kansas register. A complete copy of all proposed rules and regulations and the complete economic impact statement required by K.S.A. 77-416, and amendments thereto, shall accompany the notice sent to the secretary of state. The notice shall contain:

(A) A summary of the substance of the proposed rules and regulations;

(B) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public;

(C) a summary of the environmental benefit statement, if applicable, indicating the need for the proposed rules and regulations;

(D) the address where a complete copy of the proposed rules and regulations, the complete economic impact statement, the environmental benefit statement, if applicable, required by K.S.A. 77-416, and amendments thereto, may be obtained;

(E) the time and place of the public hearing to be held; the manner in which interested parties may present their views; and

(F) a specific statement that the period of 60 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(2) Prior to adopting any rule and regulation ~~which~~ *that* establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of wildlife, ~~and parks and tourism~~ shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(F) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(3) Prior to adopting any rule and regulation ~~which~~ *that* establishes any permanent prior authorization on a prescription-only drug pursuant to K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the director of the budget, the secretary of administration and the attorney general, the secretary of health and environment shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(F) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(4) Prior to adopting any rule and regulation pursuant to subsection (c), the state agency shall give at least 60 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a) (1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(F) shall state that the period of notice constitutes a public comment period on such rules and regulations.

(b) (1) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. At the time it adopts or amends a rule and regulation, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto, including:

(A) The agency's reasons for not accepting substantial arguments made in testimony and comments; and

(B) the reasons for any substantial change between the text of the proposed adopted or amended rule and regulation contained in the published notice of the proposed adoption or amendment of the rule and regulation and the text of the rule and regulation as finally adopted.

(2) Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency, in lieu of following the requirements or statutory procedure set out in such other law, may give notice and hold hearings on proposed rules and regulations in the manner prescribed by this section.

(3) Notwithstanding the other provisions of this section, the secretary of corrections may give notice or an opportunity to be heard to any inmate in the custody of the secretary with regard to the adoption of any rule and regulation.

(c) (1) The agency shall initiate new rulemaking proceedings under this act, if a state agency proposes to adopt a final rule and regulation that:

(A) Differs in subject matter or effect in any material respect from the rule and regulation as originally proposed; and

(B) is not a logical outgrowth of the rule and regulation as originally proposed.

(2) For the purposes of this provision, a rule and regulation is not the logical outgrowth of the rule and regulation as originally proposed if a person affected by the final rule and regulation was not put on notice that such person's interests were affected in the rule making.

(d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record main-

tained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

(e) No rule and regulation shall be adopted by a board, commission, authority or other similar body except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 138. K.S.A. 79-201a 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:

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 motor vehicles leased for a period of at least one year and 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 through 12-1749, and amendments thereto, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, and amendments thereto, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, and amendments thereto, 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 through 13-1245, and amendments thereto, 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 through 13-1245, and amendments thereto, 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 through 13-1245, and amendments thereto, 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 through 12-1749, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, 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, under the authority of K.S.A. 12-1740 through 12-1749, 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, under the authority of K.S.A. 12-1740 through 12-1749, 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. 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 through 12-1749, and amendments thereto, and used in any retail enterprise identified under NAICS sectors 44 and 45, 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 “NAICS” means the North American industry classification system, as developed under the authority 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~~ *that* is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq., and amendments thereto, 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 through 12-1749a, and amendments thereto, for any poultry confinement

facility on agricultural land ~~which~~ *that* 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 through 12-1749a, 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~~ *that* 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 and tourism~~. Property that is part of a state park listed in K.S.A. 32-837(a)(25) or (a)(26), and amendments thereto, and that is contained within or encumbered by any railroad rights-of-way that have been transferred or conveyed to the Kansas department of wildlife, ~~and parks and tourism~~ for interim use, pursuant to 16 U.S.C. § 1247(d), shall be deemed to be acquired and used for state park purposes by the Kansas department of wildlife, ~~and parks and tourism~~ for the purposes of this subsection.

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 non-profit corporation.

Thirteenth. All buildings, as the same is defined in K.S.A. 76-6a13(c), and amendments thereto, ~~which that~~ 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 that~~ 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. 74-32,407, 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. 74-32,407, and amendments thereto, ~~which that~~ 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 that~~ is contained within a dormitory that is exempt from property taxation and which is necessary for the accommodation of the students residing therein.

Twenty-First. All real property from and after the date of its transfer by the city of Olathe, Kansas, to the Kansas state university foundation, all buildings and improvements thereafter erected and located on such property, and all tangible personal property, ~~which that~~ is held, used or operated for educational and research purposes at the Kansas state university Olathe innovation campus located in the city of Olathe, Kansas.

Twenty-Second. All real property, and all tangible personal property, owned by postsecondary educational institutions, as ~~that term is~~ defined in K.S.A. 74-3201b, and amendments thereto, or by the board of regents on behalf of the postsecondary educational institutions, ~~which that~~ is leased by a for profit company and is actually and regularly used exclusively for research and development purposes so long as any rental income received by such postsecondary educational institution or the board of regents from such a company is used exclusively for educational or scientific purposes. Any such lease or occupancy described in this section shall be for a term of no more than five years.

Twenty-Third. For all taxable years commencing after December 31, 2005, any and all housing developments and related improvements located on United States department of defense military installations in the state of Kansas, ~~which that~~ are developed pursuant to the military housing privatization initiative, 10 U.S.C. § 2871 et seq., or any successor thereto, and ~~which~~ are provided exclusively or primarily for use by military personnel of the United States and their families.

Twenty-Fourth. For all taxable years commencing after December 31, 2012, except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 2013, under the authority of K.S.A. 12-1740 through 12-1749a, 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 that~~ 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. 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 through 12-1749a, and amendments thereto, and used in any retail enterprise identified under NAICS sectors 44 and 45, 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 “NAICS” means the North American industry classification system, as developed under the authority 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 that~~ is located in a redevelopment project area established under the authority of K.S.A. 12-1770 et seq., and amendments thereto, 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 through 12-1749a, and amendments thereto, for any poultry confinement facility on agricultural land ~~which that~~ 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 through 12-1749a, and amendments thereto, for a rabbit confinement facility on agricultural land ~~which that~~ 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.

Twenty-Fifth. For all taxable years commencing after December 31, 2013, any and all utility systems and appurtenances located on United States department of defense military installations in the state of Kansas, ~~which that~~ have been acquired after December 31, 2013, pursuant to the military utilities privatization initiative, 10 U.S.C. § 2688 et seq., or any successor thereto, or ~~which that~~ have been installed after December 31, 2013, and ~~which that~~ are provided exclusively or primarily for use by the military of the United States.

Twenty-Sixth. All land owned by a municipality that is a part of a public levee that is leased pursuant to K.S.A. 13-1243, and amendments thereto.

Except as otherwise specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 2010.

Sec. 139. K.S.A. 79-3221e is hereby amended to read as follows: 79-3221e. (a) The director of taxation of the department of revenue shall determine annually the total amount designated for use in the Kansas nongame wildlife improvement program pursuant to K.S.A. 79-3221d, and amendments thereto, and shall report such amount to the state treasurer who shall credit the entire amount thereof to the nongame wildlife improvement fund ~~which fund~~ *that* is hereby established in the state treasury. In the case where donations are made pursuant to K.S.A. 79-3221d, and amendments thereto, the director shall remit the entire amount thereof to the state treasurer who shall credit the same to such fund. All moneys deposited in such fund shall be used solely for the purpose of preserving, protecting, perpetuating and enhancing nongame wildlife in this state. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, ~~and parks and tourism~~ or the secretary's designee.

(b) As used in K.S.A. 79-3221d, and amendments thereto, and this section, "nongame wildlife" means any species of wildlife not legally classified as a game species or furbearer by statute or by rules and regulations adopted pursuant to statute.

Sec. 140. K.S.A. 79-3221h is hereby amended to read as follows: 79-3221h. (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the nongame wildlife improvement fund under the control, authorities and duties of the Kansas department of wildlife, ~~and parks and tourism~~, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to ~~the nongame wildlife improvement fund—federal, which is hereby created. The nongame wildlife improvement fund—federal is hereby redesignated~~ as the plant and animal disease and pest control fund.

(b) No moneys derived from sources described in subsection (a) shall be used for any purpose other than the administration of matters ~~which~~ *that* relate to purposes authorized under K.S.A. 79-3221e, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife, ~~and parks and tourism~~ and the Kansas department of wildlife, ~~and parks and tourism~~ as provided by law.

(c) On or before the 10th of each month, the director of accounts and

reports shall transfer from the state general fund to the plant and animal disease and pest control fund, interest earnings based on:

(1) The average daily balance of moneys in the plant and animal disease and pest control fund; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the plant and animal disease and pest control fund, shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, ~~and parks and tourism~~.

Sec. 141. K.S.A. 2022 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, ~~K.S.A. 46-1106(e)~~, 46-1114, or 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may:

(1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of K.S.A. 46-1106(e) or 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary

has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following:

(A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce;

(B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 74-50,212, and amendments thereto;

(C) information received from businesses completing the form required by K.S.A. 74-50,217, and amendments thereto; and

(D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the Kansas department of wildlife, ~~and parks and tourism~~ to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department for children and families for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal gov-

ernment, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act, K.S.A. 74-4901 et seq., and amendments thereto;

(13) (A) provide taxpayer information of persons suspected of violating K.S.A. 44-766, and amendments thereto, to the secretary of labor or such secretary's designee for the purpose of determining compliance by any person with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and amendments thereto. The information to be provided shall include all relevant information in the possession of the department of revenue necessary for the secretary of labor to make a proper determination of compliance with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and amendments thereto, and to calculate any unemployment contribution taxes due. Such information to be provided by the department of revenue shall include, but not be limited to, withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the results or status of such audit or investigation;

(B) any person receiving tax information under the provisions of this paragraph shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality; and

(C) each of the secretary of labor and the secretary of revenue may adopt rules and regulations necessary to effect the provisions of this paragraph;

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, “associated persons” includes spouses or dependents listed on income tax returns;

(15) after receipt of information pursuant to subsection (f), forward such information and provide the following reported Kansas individual income tax information for each listed defendant, if available, to the state board of indigents’ defense services in an electronic format and in the manner determined by the secretary:

- (A) The defendant’s name;
- (B) social security number;
- (C) Kansas adjusted gross income;
- (D) number of exemptions claimed; and

(E) the relevant tax year of such records. Any social security number provided to the secretary and the state board of indigents’ defense services pursuant to this section shall remain confidential; and

(16) disclose taxpayer information that is received from income tax returns to the department of commerce that may be disclosed pursuant to the provisions of K.S.A. 2022 Supp. 74-50,227, and amendments thereto, for the purpose of including such information in the database required by K.S.A. 2022 Supp. 74-50,227, and amendments thereto.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) For the purpose of determining whether a defendant is financially able to employ legal counsel under the provisions of K.S.A. 22-4504, and amendments thereto, in all felony cases with appointed counsel where the defendant’s social security number is accessible from the records of the district court, the court shall electronically provide the defendant’s name, social security number, district court case number and county to the secretary of revenue in the manner and format agreed to by the office of judicial administration and the secretary.

(g) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any re-

port, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 142. K.S.A. 79-32,203 is hereby amended to read as follows: 79-32,203. (a) There shall be allowed two types of credits against the tax liability of a taxpayer imposed under the Kansas income tax act related to real property that is both:

(1) Designated by the secretary of wildlife, ~~and parks and tourism~~ pursuant to the nongame and endangered species conservation act as critical habitat for a threatened or endangered species or certified by the secretary of wildlife, ~~and parks and tourism~~ as land known to support populations of species in need of conservation; and

(2) included in management activities as part of a recovery plan, or an agreement identified in ~~subsection (b) of K.S.A. 32-962(b)~~, and amendments thereto, as approved by the secretary of wildlife, ~~and parks and tourism~~ for a species listed as threatened, endangered or in need of conservation pursuant to the nongame and endangered species conservation act.

(b) There shall be allowed as an annual credit against the tax liability of a taxpayer imposed an amount equal to the total amount paid by the taxpayer during the taxable year for ad valorem taxes and assessments that are imposed by the state or by any political or taxing subdivision of the state or related to real property described in subsection (a) for each year that the management activities specified in the recovery plan or agreement described in subsection (a)(2) remain in effect and apply to such real property. The credit allowed by this subsection shall not exceed the amount of tax imposed under the Kansas income tax act reduced by the sum of any other credits allowable pursuant to law.

(c) There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to costs incurred by the taxpayer for habitat management or construction and maintenance of improvements on real property described in subsection (a). Such costs shall be for management or improvements in accordance with management activities as a part of a recovery plan or conservation agreement identified in ~~subsection (b) of K.S.A. 32-962(b)~~, and amendments thereto, as approved by the secretary of wildlife, ~~and parks and tourism~~, for a species listed as threatened, endangered or in need of conservation pursuant to the nongame and endangered species conservation act. The tax credit allowed by this subsection shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the taxpayer may elect, at the time of filing the initial return upon which the credit is claimed, to:

(1) Carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability; or

(2) receive reimbursement of the amount thereof that exceeds such tax liability, to be paid from amounts appropriated to the secretary of revenue for that purpose upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.

(d) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1997, but before January 1, 2003.

Sec. 143. K.S.A. 79-5212 is hereby amended to read as follows: 79-5212. (a) Whenever a taxpayer liable to pay any tax, penalty or interest assessed pursuant to K.S.A. 79-5205, and amendments thereto, refuses or neglects to immediately pay the amount due, the director of taxation may issue one or more warrants for the immediate collection of the amount due, directed to the sheriff of any county of the state commanding the sheriff to seize and sell the real and personal property of the taxpayer, or to seize, appraise and dispose of the firearms of the taxpayer, found within the sheriff's county to satisfy the amount specified on the warrant and the cost of executing the warrant. The director of taxation may also issue one or more warrants directed to any employee of the department of revenue commanding the employee to seize and sell the real and personal property of the taxpayer, or to seize, appraise and dispose of the firearms of the taxpayer, found anywhere within the state of Kansas to satisfy the amount specified on the warrant and the cost of executing the warrant. A copy of the warrant shall also be mailed to the taxpayer at the taxpayer's last known address or served upon the taxpayer in person.

(b) The sheriff or department of revenue employee shall proceed to execute upon the warrant in the same manner as provided for attachment orders by K.S.A. 60-706, 60-707 and 60-710, and amendments thereto, except as otherwise provided herein. In the execution of a warrant issued to a department of revenue employee, the employee shall have all of the powers conferred by law upon sheriffs. Any law enforcement officer may assist in the execution of a warrant if requested to do so by a department of revenue employee.

(c) No law exempting any goods and chattels, land and tenements from forced sale under execution shall apply to a seizure and sale, or in the case of firearms, sale or disposal, under any warrant.

(d) A third party holding funds or other personal property of the taxpayer shall immediately, or as soon thereafter as possible, after service of the warrant on such third party, deliver such funds or other personal property to the sheriff or department of revenue employee, who shall

then deliver such to the director of taxation or the director's designee for deposit toward the balance due on the taxpayer's assessment.

(e) The sheriff or department of revenue employee shall make return of such warrant to the director of taxation within 60 days from the date of the warrant. If property is seized, then the sheriff or department of revenue employee shall also make return of such warrant to the clerk of the district court in the county where the property was seized.

(f) (1) If the taxpayer fails to appeal the assessment as provided by ~~subsection (b) of K.S.A. 79-5205(b)~~, and amendments thereto, or if the taxpayer requests a hearing and a final order has been entered by the director of taxation as to the correctness of the assessment, then the sheriff or department of revenue employee shall sell the seized property at public auction, except that firearms may be sold at public auction or disposed of as provided in ~~subsection~~ *paragraph* (2). The provisions of K.S.A. 60-2406, and amendments thereto, shall apply to liens against the property being sold. Notice of the sale of personal property shall be given in accordance with K.S.A. 60-2409, and amendments thereto. Notice of the sale of real property shall be given in accordance with K.S.A. 60-2410, and amendments thereto. The taxpayer shall have the right to redeem real property within a period of six months from the date of the sale.

(2) In the case of seized firearms not sold, the director of taxation shall obtain an appraisal value performed by a federally licensed firearms dealer or an employee thereof. Such value shall be credited against the taxpayer's outstanding liability. Subsequent to such appraisal and credit against the taxpayer's outstanding liability, the director shall transfer such firearm or firearms as follows:

(A) If the firearm or firearms have historical significance, the director may transfer the firearm or firearms to the Kansas state historical society;

(B) the director may transfer the firearm or firearms to the secretary of wildlife, ~~and parks and tourism~~;

(C) the director may transfer the firearm or firearms to the director of the Kansas bureau of investigation; or

(D) the director may transfer the firearm or firearms to such city or county law enforcement agency where the firearm was seized.

(3) At least 30 days prior to the transfer of such firearm or firearms, pursuant to this subsection, the director shall give written notice by mail to the taxpayer at the taxpayer's last known address of the appraised value of such firearm or firearms and the date that the director intends to transfer such firearm or firearms. The taxpayer may appeal the appraised value of any such firearm or firearms by filing a written request for a hearing before the district court in which the tax warrant used to seize such firearm or firearms was filed. Such request must be filed with the district court within 15 days after such notice to the taxpayer was mailed by the

director. If no appeal is filed with the district court within 15 days, or if upon appeal the district court rules against the taxpayer, the director shall transfer such firearm or firearms.

(g) The director of taxation may also direct the sheriff or department of revenue employee to file any warrant issued pursuant to subsection (a) with the clerk of the district court of any county in Kansas, and thereupon the clerk shall enter in the appearance docket the name of the taxpayer mentioned in the warrant, the amount of the tax or portion of it, interest and penalties for which the warrant is issued and the date such copy is filed and note the taxpayer's name in the general index. No fee shall be charged for such entry. The amount of such warrant shall thereupon become a lien upon the title to, and interest in, the real property of the taxpayer located within such county. Thereupon, the director of taxation shall have the same remedies to collect the amount of the tax, penalty and interest, as if the state of Kansas had recovered judgment against the taxpayer, including immediately garnishing the wages or other property of the taxpayer pursuant to K.S.A. 60-716 et seq., and amendments thereto. Such remedies shall be in addition to the other collection remedies provided herein.

(h) The director of taxation shall have the right at any time to issue alias warrants until the full amount of the tax, penalty and interest is collected.

Sec. 144. K.S.A. 82a-209 is hereby amended to read as follows: 82a-209. (a) Whenever the channel, or any part thereof, of any navigable stream in or bordering upon the state of Kansas has previously been, or shall hereafter be, changed or altered by such stream establishing a new channel by flood or avulsion, so that any land situated between the banks of such stream at high-water mark shall be abandoned or no longer used as a channel for such stream and the title to such channel is not controlled by K.S.A. 24-454, and amendments thereto, or the provisions of article 2 of chapter 82a of the Kansas Statutes Annotated, *and amendments thereto*, are not applicable, the Kansas secretary of state shall cause such land to be surveyed by a surveyor selected by the secretary of state, and may thereafter sell and convey the same, or any part thereof, by grant or patent, as hereinafter provided. Any such survey and appropriate field notes, maps, records or other papers relating to such survey shall be filed with the register of the state land office. A certified copy of such survey may be filed in the office of the register of deeds of the county within which the land is located. Such land, or any part thereof, may be conveyed to the Kansas department of wildlife, ~~and parks and tourism~~ or may be sold at the best price obtainable to be agreed upon between the secretary of state, acting for and in behalf of the state of Kansas, and any person desiring to buy the same. In any case where any such land has been a part of the bed or channel of any navigable stream bordering on the state of Kansas and the survey establishes parts of such land lying between the

Kansas bank of such stream at the high-water mark and the center of the main channel of such stream to be the property of this state ~~which~~ *that* prior to the survey has been occupied and claimed by any person under any patent, conveyance or grant issued or made after April 1952, to such person from a bordering state or a political subdivision thereof, the secretary of state first shall offer such parts of such lands to such persons occupying and claiming the same as aforesaid at a price represented by the proportionate cost of such survey determined by applying the total cost of the survey to the total acreage of lands covered by said survey. Upon satisfactory proof made thereof, the secretary of state shall allow as a credit to such purchase price the actual cash paid for any such patent, conveyance or grant and the actual costs of any permanent improvements made to any such lands or parts thereof by the person occupying and claiming the same. Upon the refusal of any such offer to such person, the land may be sold by the secretary of state as herein provided.

(b) If it is not possible for such prospective purchaser and the secretary of state to agree on a price, then the land shall be sold by the secretary of state as one tract, or in different tracts, as the secretary of state may determine, under an appraisalment made by three disinterested persons residing in the county or counties where such abandoned channel sought to be sold is situated, which appraisers shall be appointed by the secretary of state. Such sale shall be for not less than ~~three-fourths~~ ^{3/4} of the appraised value. In no case shall such land be sold for less than the cost of surveying, appraising and selling the same.

Sec. 145. K.S.A. 82a-220 is hereby amended to read as follows: 82a-220. (a) As used in this act:

(1) “Conservation project” means any project or activity that the director of the Kansas water office determines will assist in restoring, protecting, rehabilitating, improving, sustaining or maintaining the banks of the Arkansas, Kansas or Missouri rivers from the effects of erosion;

(2) “director” means the director of the Kansas water office; and

(3) “state property” means real property currently owned in full or in part by the state in the Arkansas, Kansas or Missouri rivers in Kansas, in and along the bed of the river to the ordinary high water mark on the banks of such rivers.

(b) (1) The director is hereby authorized to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners in such projects for the expected life of the project and with such terms and conditions as the director, after consultation with the Kansas department of agriculture, the Kansas department of health and environment, the Kansas department of wildlife, ~~and parks and tourism~~ and the Kansas department of agriculture division of conservation, may deem appropriate.

(2) Notice of the easement shall be given to the county or counties in which the easement is proposed and to any municipality or other governmental entity that, in the opinion of the director, holds a riparian interest in the river and may have an interest in the project or results thereof. Those persons or entities receiving notice shall have a period, not to exceed 30 days, to provide comment on the proposed easement to the director.

(3) In the event such an easement is proposed to be granted on state property owned or managed by any other agency of the state, the director shall give notice of the proposed easement and project to that agency and shall jointly negotiate any easement so granted.

(4) A copy of all easements so entered shall be filed by the director with the office of the secretary of state and the office of the register of deeds for the county or counties in which the easement is located.

(c) The director shall adopt rules and regulations necessary to carry out the provisions of this act.

Sec. 146. K.S.A. 82a-326 is hereby amended to read as follows: 82a-326. When used in this act:

(a) “Water development project” means any project or plan ~~which~~ *that* requires a permit pursuant to K.S.A. 24-126, 24-1213, 82a-301 et seq., and amendments thereto, or the multipurpose small lakes program act;

(b) “environmental review agencies” means the:

- (1) Kansas department of wildlife; ~~and parks and tourism~~;
- (2) Kansas forest service;
- (3) state biological survey;
- (4) Kansas department of health and environment;
- (5) state historical society;
- (6) Kansas department of agriculture division of conservation; and
- (7) state corporation commission.

Sec. 147. K.S.A. 82a-903 is hereby amended to read as follows: 82a-903. In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for

operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The division of water resources of the Kansas department of agriculture, state geological survey, the division of environment of the department of health and environment, department of wildlife, *and parks and tourism*, Kansas department of agriculture division of conservation and all other interested state agencies shall cooperate with the office in formulation of such plan.

Sec. 148. K.S.A. 82a-1501 is hereby amended to read as follows: 82a-1501. As used in the water transfer act:

(a) (1) “Water transfer” means the diversion and transportation of water in a quantity of 2,000 acre feet or more per year for beneficial use at a point of use outside a 35-mile radius from the point of diversion of such water. In determining the amount of water transferred in the case of a water transfer supplying water to multiple public water supply systems or other water users, the amount of water transferred shall be considered to be the aggregate amount of water ~~which~~ *that* will be supplied by the transfer to all public water supply systems and other water users whose points of use are located outside a 35-mile radius from the point of diversion of such water.

(2) Water transfer does not include a release of water from a reservoir to the water’s natural watercourse for use within the natural watercourse or watershed, made under the authority of the state water plan storage act (, K.S.A. 82a-1301 et seq., and amendments thereto), or the water assurance program act (, K.S.A. 82a-1330 et seq., and amendments thereto).

(b) “Point of diversion” means:

(1) The point where the longitudinal axis of the dam crosses the center line of the stream in the case of a reservoir;

(2) the location of the headgate or intake in the case of a direct diversion from a river, stream or other watercourse;

(3) the location of a well in the case of groundwater diversion; or

(4) the geographical center of the points of diversion in the case of multiple diversion points.

(c) “Point of use” means the geographical center of each water user’s proposed or authorized place of use where any water authorized by the proposed transfer will be used.

(d) “Chief engineer” means the chief engineer of the division of water resources of the Kansas department of agriculture.

(e) “Secretary” means the secretary of the department of health and environment, or the director of the division of environment of the department of health and environment if designated by the secretary.

(f) “Director” means the director of the Kansas water office.

- (g) “Panel” means the water transfer hearing panel.
- (h) (1) “Party” means:
 - ~~(1)~~(A) The applicant; or
 - ~~(2)~~(B) any person who successfully intervenes pursuant to K.S.A. 82a-1503, and amendments thereto, and actively participates in the hearing.
- (2) “Party” does not ~~mean~~ include a person who makes a limited appearance for the purpose of presenting a statement for or against the water transfer.
- (i) “Commenting agencies” means groundwater management districts and state natural resource and environmental agencies, including but not limited to the Kansas department of health and environment, the Kansas water office, the Kansas water authority, the Kansas department of wildlife, ~~and parks and tourism~~ and the division of water resources of the Kansas department of agriculture.
- (j) “Public water supply system” means any water supply system, whether publicly or privately owned, for which a permit is required pursuant to K.S.A. 65-163, and amendments thereto.

Sec. 149. K.S.A. 82a-2001 is hereby amended to read as follows: 82a-2001. As used in this act:

(a) (1) “Classified stream segments” shall include all stream segments that are waters of the state as defined in ~~subsection (a)~~ of K.S.A. 65-161(a), and amendments thereto, and waters described in ~~subsection (d)~~ of K.S.A. 65-171d(d), and amendments thereto, that:

(A) Are indicated on the federal environmental protection agency’s reach file 1 (RF1) (1982) and have the most recent 10-year median flow of equal to or in excess of one cubic foot per second based on data collected and evaluated by the United States geological survey or in the absence of stream segment flow data, calculations of flow conducted by extrapolation methods provided by the United States geological survey;

(B) have the most recent 10-year median flow of equal to or in excess of one cubic foot per second based on data collected and evaluated by the United States geological survey or in the absence of stream segment flow data, calculations of flow conducted by extrapolation methods provided by the United States geological survey;

(C) are actually inhabited by threatened or endangered aquatic species listed in rules and regulations promulgated by the Kansas department of wildlife, ~~and parks and tourism~~ or the United States fish and wildlife service;

(D) (i) scientific studies conducted by the department show that during periods of flow less than one cubic foot per second stream segments provide important refuges for aquatic life and permit biological recolonization of intermittently flowing segments; and

(ii) a cost-benefit analysis conducted by the department and taking into account the economic and social impact of classifying the stream seg-

ment indicates that the benefits of classifying the stream segment outweigh the costs of classifying the stream segment, as consistent with the federal clean water act and federal regulations; or

(E) are at the point of discharge on the stream segment and downstream from such point where the department has issued a national pollutant discharge elimination system permit other than a permit for a confined feeding facility, as defined in K.S.A. 65-171d, and amendments thereto.

(2) Classified stream segments other than those described in subsection (a)(1)(E) shall not include ephemeral streams; grass, vegetative or other waterways; culverts; or ditches.

(3) Any definition of classified stream or “classified stream segment” in rules and regulations or law that is inconsistent with this definition is hereby declared null and void.

(b) “Department” means the department of health and environment.

(c) “Designated uses of classified stream segments” shall be defined as follows:

(1) “Agricultural water supply use” means the use of a classified stream segment for agricultural purposes, including the following:

(A) “Irrigation” means the withdrawal of water from a classified stream segment for application onto land; or

(B) “livestock watering” means the provision of water from a classified stream segment to livestock for consumption.

(2) “Aquatic life support use” means the use of a classified stream segment for the maintenance of the ecological integrity of streams, lakes and wetlands, including the sustained growth and propagation of native aquatic life; naturalized, important, recreational aquatic life; and indigenous or migratory semiaquatic or terrestrial wildlife directly or indirectly dependent on surface water for survival. Categories of “aquatic life support use” include:

(A) “Special aquatic life use waters” means classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state, or classified stream segments that contain representative populations of threatened or endangered species, that are listed in rules and regulations promulgated by the Kansas department of wildlife, ~~and parks and tourism~~ or the United States fish and wildlife service.

(B) “Expected aquatic life use waters” means classified stream segments containing habitat types and indigenous biota commonly found or expected in the state.

(C) “Restricted aquatic life use waters” means classified stream segments containing indigenous biota limited in abundance or diversity by the physical quality or availability of habitat, due to natural deficiencies or artificial modifications, compared to more suitable habitats in adjacent waters.

(3) “Domestic water supply” means the use of a classified stream segment, after appropriate treatment, for the production of potable water.

(4) “Food procurement use” means the use of a classified stream segment for the obtaining of edible forms of aquatic or semiaquatic life for human consumption.

(5) “Groundwater recharge use” means the use of a classified stream segment for the replenishing of fresh or usable groundwater resources. This use may involve the infiltration and percolation of surface water through sediments and soils or the direct injection of surface water into underground aquifers.

(6) “Industrial water supply use” means the use of a classified stream segment for nonpotable purposes by industry, including withdrawals for cooling or process water.

(7) (A) “Recreational use” means:

(i) Primary contact recreational use is use of a classified stream segment for recreation during the period from April 1 through October 31 of each year, provided such classified stream segment is capable of supporting the recreational activities of swimming, skin diving, water-skiing, wind surfing, kayaking or mussel harvesting where the body is intended to be immersed in surface water to the extent that some inadvertent ingestion of water is probable.

(a) Primary contact recreational use-Class A: Use of a classified stream segment for recreation during the period from April 1 through October 31 of each year, and the classified stream segment is a designated public swimming area. Water quality criterion for bacterial indicator organisms applied to Class A waters shall be set at an illness rate of eight or more per 1,000 swimmers. The classified stream segment shall only be considered impaired for primary contact recreational use-Class A if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class A waters during the period November 1 through March 31 of each year shall be equal to the criterion applied to secondary contact recreational use-Class A waters.

(b) Primary contact recreational use-Class B: Use of a classified stream segment for recreation, where moderate full body contact recreation is expected, during the period from April 1 through October 31 of each year, and the classified stream segment is by law or written permission of the landowner open to and accessible by the public. Water quality criterion for bacterial indicator organisms applied to Class B waters shall be set at an illness rate of 10 or more per 1,000 swimmers. The classified stream segment shall only be considered impaired for primary contact recreational use-Class B if the calculated geometric mean of at least five

samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class B waters during the period November 1 through March 31 of each year shall be equal to the criterion applied to secondary contact recreational use-Class A waters.

(c) Primary contact recreational use-Class C: Use of a classified stream segment for recreation, where full body contact recreation is infrequent during the period from April 1 through October 31 of each year, and is not open to and accessible by the public under Kansas law and is capable of supporting the recreational activities of swimming, skin diving, water-skiing, wind surfing, boating, mussel harvesting, wading or fishing. Water quality criterion for bacterial indicator organisms applied to Class C waters shall be set at an illness rate of 12 or more per 1,000 swimmers. The classified stream segment shall only be considered impaired for primary contact recreational use-Class C if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class C waters during the period November 1 through March 31 of each year shall be equal to the criterion applied to secondary contact recreational use-Class B waters.

(ii) Secondary contact recreational use is use of a classified stream segment for recreation, provided such classified stream segment is capable of supporting the recreational activities of wading, fishing, canoeing, motor boating, rafting or other types of boating where the body is not intended to be immersed and where ingestion of surface water is not probable.

(a) Secondary contact recreational use-Class A: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is by law or written permission of the landowner open to and accessible by the public. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class A waters shall be nine times the criterion applied to primary contact recreational use-Class B waters. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class A if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion.

(b) Secondary contact recreational use-Class B: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is not open to and accessible by the public under Kansas law. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class B waters shall be nine times the criterion applied to primary contact recreational-Class C use waters. The classified stream segment

shall only be considered impaired for secondary contact recreational use-Class B if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion.

(B) If opposite sides of a classified stream segment would have different designated recreational uses due to differences in public access, the designated use of the entire classified stream segment may be the higher attainable use, notwithstanding that such designation does not grant the public access to both sides of such segment.

(C) Recreational use designations shall not apply to stream segments where the natural, ephemeral, intermittent or low flow conditions or water levels prevent recreational activities.

(d) “Ephemeral stream” means streams that flow only in response to precipitation and whose channel is at all times above the water table.

(e) “Secretary” means the secretary of health and environment.

Sec. 150. K.S.A. 82a-2204 is hereby amended to read as follows: 82a-2204. (a) The governing board of the horsethief reservoir benefit district shall consist of eight members, as follows:

(1) Four members to be appointed one each by the board of county commissioners of the four counties in the district;

(2) one member to be appointed one each by the governing body of the cities of Dodge City and Garden City;

(3) one member appointed by the Pawnee watershed district; and

(4) the secretary of wildlife, ~~and parks and tourism~~ or the secretary’s designee.

(b) The member appointed by the Pawnee watershed district shall serve as chairperson of the governing board.

(c) The board shall meet upon call of the chairperson as necessary to carry out its duties under this act.

(d) The initial appointment for the members appointed by Finney and Gray counties and Dodge City shall be for a term of one year. The initial appointment for the members appointed by Ford and Hodgeman counties, Garden City and the Pawnee watershed district shall be for a term of two years. For each subsequent appointment, each appointed member of the board shall be appointed for a term of two years. Each member shall continue in such position until a successor is appointed and qualified. Members shall be eligible for reappointment. Whenever a vacancy occurs in the membership of the board, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding.

(e) The governing body shall have the following powers and duties:

(1) Authority to impose a district wide sales tax pursuant to the provisions of this act;

- (2) authority to issue bonds pursuant to the provisions of this act; and
- (3) authority to manage recreational facilities within the district.
- (f) The governing body shall provide that any fee schedule imposed for users of recreational facilities within the district may be set at a reduced rate or schedule for residents of any county ~~which~~ *that* is a part of the district.

Sec. 151. K.S.A. 2-1314d, 2-2473, 8-134, 32-801, 32-802, 32-805, 32-806, 32-807, 32-809, 32-810, 32-811, 32-812, 32-813, 32-814, 32-815, 32-816, 32-818, 32-832, 32-833, 32-834, 32-835, 32-836, 32-837, 32-839, 32-840, 32-844, 32-845, 32-846, 32-869, 32-873, 32-874, 32-874a, 32-874b, 32-874c, 32-874d, 32-874e, 32-886, 32-887, 32-888, 32-906, 32-918, 32-930, 32-932, 32-938, 32-960a, 32-966, 32-976, 32-996, 32-997, 32-998, 32-999, 32-9,100, 32-1001, 32-1004, 32-1005, 32-1031, 32-1032, 32-1040, 32-1041, 32-1049, 32-1049a, 32-1050, 32-1051, 32-1052, 32-1053, 32-1054, 32-1062, 32-1063, 32-1064, 32-1066, 32-1074, 32-1075, 32-1077, 32-1102, 32-1112, 32-1129, 32-1174, 32-1203, 32-1306, 32-1308, 32-1310, 32-1401, 32-1402, 32-1403, 32-1410, 32-1411, 32-1412, 32-1413, 32-1420, 32-1421, 32-1422, 32-1432, 32-1433, 32-1438, 47-2101, 65-189e, 65-3424b, 65-5703, 68-406, 74-134, 74-5,133, 74-2622, 74-3322, 74-4722, 74-4911f, 74-5005, 74-6614, 74-7901, 74-9201, 75-1253, 75-2720, 75-2935, 75-3339, 75-37,121, 75-3907, 75-3908, 75-3910, 76-463, 77-415, 79-201a, 79-3221e, 79-3221h, 79-32,203, 79-5212, 82a-209, 82a-220, 82a-326, 82a-903, 82a-1501, 82a-2001 and 82a-2204 and K.S.A. 2022 Supp. 19-2803b, 19-2803d, 19-2817, 19-2822, 19-2835, 19-2836, 19-2839, 19-2844, 19-2844a, 19-2855, 19-2868, 19-2873, 19-2894, 19-3543, 20-302b, 21-5810, 21-6308a, 21-6416, 22-2512, 32-701, 41-719, 49-408, 58-3221, 58-3225, 74-5602, 77-421 and 79-3234 are hereby repealed.

Sec. 152. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 7, 2023.

CHAPTER 8
SENATE BILL No. 3°

AN ACT designating *Silvisaurus condrayi* as the official state land fossil.

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

Section 1. *Silvisaurus condrayi*, a one-ton armored ankylosaur approximately 13 feet long that walked across Kansas during the late cretaceous period of the mesozoic era, is hereby designated as the official land fossil of the state of Kansas.

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

Approved April 7, 2023.

CHAPTER 9

SENATE BILL No. 114

AN ACT concerning solid waste; relating to advanced recycling; creating definitions for “advanced recycling” and related terms; separating advanced recycling from the current solid waste management system; amending K.S.A. 65-3402 and repealing the existing section.

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

Section 1. K.S.A. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

(a) (1) “Solid waste” means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials, including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities.

(2) “Solid waste” does not include:

(A) Hazardous wastes as defined by ~~subsection (f) of~~ K.S.A. 65-3430, and amendments thereto;

(B) recyclables ~~or~~;

(C) the waste of domestic animals as described by ~~subsection (a)(1) of~~ K.S.A. 65-3409, and amendments thereto; *or*

(D) *post-use polymers and recovered feedstocks that are converted at an advanced recycling facility or held at such a facility prior to conversion through an advanced recycling process.*

(b) (1) “Solid waste management system” means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

(2) “*Solid waste management system*” does not include advanced recycling.

(c) (1) “Solid waste processing facility” means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. ~~This term~~

(2) “*Solid waste processing facility*” does not include a scrap material recycling and processing facility *or an advanced recycling facility.*

(d) (1) “Solid waste disposal area” means any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing or municipal operations.

(2) “Solid waste disposal area” includes all property described or included within any permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

(e) “Person” means individual, partnership, firm, trust, company, association, corporation, individual or individuals having controlling or majority interest in a corporation, institution, political subdivision, state agency or federal department or agency.

(f) “Waters of the state” means all streams and springs, and all bodies of surface or groundwater, whether natural or artificial, within the boundaries of the state.

(g) “Secretary” means the secretary of health and environment.

(h) “Department” means the ~~Kansas~~ department of health and environment.

(i) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water.

(j) “Open dumping” means the disposal of solid waste at any solid waste disposal area or facility ~~which~~ *that* is not permitted by the secretary under the authority of K.S.A. 65-3407, and amendments thereto, or the disposal of solid waste contrary to rules and regulations adopted pursuant to K.S.A. 65-3406, and amendments thereto.

(k) “Generator” means any person who produces or brings into existence solid waste.

(l) “Monitoring” means all procedures used to:

(1) Systematically inspect and collect data on the operational parameters of a facility, an area or a transporter; or

(2) to systematically collect and analyze data on the quality of the air, groundwater, surface water or soils on or in the vicinity of a solid waste processing facility or solid waste disposal area.

(m) “Closure” means the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volume specified in the permit and preparing the area for the long-term care.

(n) “Postclosure” means that period of time subsequent to closure of a solid waste disposal area when actions at the site must be performed.

(o) “Reclamation facility” means any location at which material containing a component defined as a hazardous substance pursuant to K.S.A. 65-3452a, and amendments thereto, or as an industrial waste pursuant to this section is processed.

(p) “Designated city” means a city or group of cities ~~which~~ *that*, through interlocal agreement with the county in which they are located, is delegated the responsibility for preparation, adoption or implementation of the county solid waste plan.

(q) “Nonhazardous special waste” means any solid waste designated

by the secretary as requiring extraordinary handling in a solid waste disposal area.

(r) (1) “Recyclables” means any materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product.

(2) “Recyclables” includes, but is not limited to, paper, glass, plastic, municipal water treatment residues, as defined by K.S.A. 65-163, and amendments thereto, and metal, ~~but~~.

(3) “*Recyclables*” does not include yard waste.

(s) “Scrap material processing industry” means any person who accepts, processes and markets recyclables.

(t) “Scrap material recycling and processing facility” means a fixed location that utilizes machinery and equipment for processing only recyclables.

(u) “Construction and demolition waste” means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; untreated wood and untreated sawdust from any source; treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles; furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act; solid waste consisting of motor vehicle window glass; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, roofing materials, soil, rock, wood, wood products, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials, nonasbestos insulation and construction related packaging. “Construction and demolition waste” shall not include waste material containing friable asbestos, garbage, furniture and appliances from which ozone depleting chlorofluorocarbons have not been removed in accordance with the provisions of the federal clean air act, electrical equipment containing hazardous materials, tires, drums and containers even though such wastes resulted from construction and demolition activities. Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste.

(v) (1) “Construction and demolition landfill” means a permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition wastes. ~~This term shall~~

(2) “*Construction and demolition landfill*” does not include a site that is used exclusively for the disposal of clean rubble.

(w) “Clean rubble” means the following types of construction and demolition waste: Concrete and concrete products including reinforcing steel, asphalt pavement, brick, rock and uncontaminated soil as defined in rules and regulations adopted by the secretary.

(x) (1) “Industrial waste” means all solid waste resulting from manufacturing, commercial and industrial processes ~~which~~ *that* is not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant or is not beneficially used in a manner that meets the definition of recyclables.

(2) “Industrial waste” includes, but is not limited to: Mining wastes from extraction, beneficiation and processing of ores and minerals unless those minerals are returned to the mine site; fly ash, bottom ash, slag and flue gas emission wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil filters; and fluorescent lamps.

(y) “Composting facility” means any facility that composts wastes and has a composting area larger than one-half acre.

(z) “Household hazardous waste facility” means a facility established for the purpose of collecting, accumulating and managing household hazardous waste and may also include small quantity generator waste or agricultural pesticide waste, or both. Household hazardous wastes are consumer products that when discarded exhibit hazardous characteristics.

(aa) (1) “Waste-to-energy facility” means a facility that processes solid waste to produce energy or fuel.

(2) *“Waste-to-energy facility” does not include any advanced recycling facility.*

(bb) (1) “Transfer station” means any facility where solid wastes are transferred from one vehicle to another or where solid wastes are stored and consolidated before being transported elsewhere, ~~but shall~~.

(2) *“Transfer station” does not include a collection box provided for public use as a part of a county-operated solid waste management system if the box is not equipped with compaction mechanisms or has a volume smaller than 20 cubic yards.*

(cc) “Municipal solid waste landfill” means a solid waste disposal area where residential waste is placed for disposal. A municipal solid waste landfill also may receive other nonhazardous wastes, including commercial solid waste, sludge and industrial solid waste.

(dd) (1) “Construction related packaging” means small quantities of packaging wastes that are generated in the construction, remodeling or repair of structures and related appurtenances.

(2) “Construction related packaging” does not include packaging wastes that are generated at retail establishments selling construction

materials, chemical containers generated from any source or packaging wastes generated during maintenance of existing structures.

(ee) (1) “Industrial facility” includes all operations, processes and structures involved in the manufacture or production of goods, materials, commodities or other products located on, or adjacent to, an industrial site and is not limited to a single owner or to a single industrial process. ~~For purposes of this act, it~~

(2) “Industrial facility” includes all industrial processes and applications that may generate industrial waste ~~which~~ that may be disposed at a solid waste disposal area ~~which~~ that is permitted by the secretary and operated for the industrial facility generating the waste and used only for industrial waste.

(ff) (1) “Advanced recycling” means a manufacturing process where already sorted post-use polymers and recovered feedstocks are purchased and then converted into basic raw materials, feedstocks, chemicals and other products through processes that include, but are not limited to, pyrolysis, gasification, depolymerization, catalytic cracking, reforming, hydrogenation, solvolysis, chemolysis and other similar technologies. The recycled products produced at advanced recycling facilities include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, coatings and adhesives.

(2) “Advanced recycling” does not include incineration of plastics or waste-to-energy processes, and products sold as fuel are not recycled products.

(3) For the purpose of this act and the implementation of any rules and regulations promulgated hereunder, recycled products produced at advanced recycling facilities shall be considered “recyclables” as defined in subsection (r).

(gg) (1) “Advanced recycling facility” means a manufacturing facility that:

(A) Receives, stores and converts post-use polymers and recovered feedstocks that are processed using advanced recycling;

(B) is a manufacturing facility subject to applicable department of health and environment manufacturing regulations; and

(C) the department may inspect to ensure that post-use polymers are used as raw material for advanced recycling and are not refuse or solid waste.

(2) For the purpose of this act and the implementation of any rules and regulations promulgated hereunder, “advanced recycling facilities” shall not be considered solid waste disposal facilities, final disposal facilities, solid waste management facilities, solid waste processing facilities, solid waste recovery facilities, incinerators or waste-to-energy facilities.

(3) The owner or operator of an advanced recycling facility shall be

responsible for the proper disposal of all recyclable material stored on the facility premises within 60 days of closure.

(hh) “Mass balance attribution” means a chain of custody accounting methodology with rules defined by a third-party certification system that enables the attribution of the mass of advanced recycling feedstocks to one or more advanced recycling products.

(ii) (1) “Post-use polymer” means a plastic that:

(A) Is derived from any industrial, commercial, agricultural or domestic activities and includes pre-consumer recovered materials and post-consumer materials;

(B) has been sorted from solid waste and other regulated waste but may contain residual amounts of waste such as organic material and incidental contaminants or impurities, such as paper labels and metal rings;

(C) is not mixed with solid waste or hazardous waste on site or during processing at the advanced recycling facility;

(D) is used or intended to be used as a feedstock for the manufacturing of feedstocks, raw materials or other intermediate products or final products using advanced recycling; and

(E) is processed at an advanced recycling facility or held at such facility prior to processing.

(2) The term “post-use polymer” shall be considered “recyclables” as defined in subsection (r).

(jj) (1) “Recovered feedstock” means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(A) Post-use polymers; or

(B) materials for which the United States environmental protection agency has made a nonwaste determination or has otherwise determined are feedstocks and not solid waste.

(2) “Recovered feedstock” does not include unprocessed municipal solid waste or feedstock that has been mixed with solid waste or hazardous waste on site or during processing at an advanced recycling facility.

(kk) “Recycled plastics” or “recycled plastic” means products that are produced:

(1) From mechanical recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics; or

(2) from the advanced recycling of pre-consumer recovered feedstocks or plastics and post-consumer plastics through mass balance attribution under a third-party certification system.

(ll) “Third-party certification system” means an international and multi-national third-party certification system that consists of a set of rules for the implementation of mass balance attribution approaches for advanced recycling of materials. Third-party certification systems in-

clude, but are not limited to: International sustainability and carbon certification; underwriter laboratories; scs recycled content; roundtable on sustainable biomaterials; ecoloop; and redcert2.

Sec. 2. K.S.A. 65-3402 is hereby repealed.

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

Approved April 7, 2023.

CHAPTER 10

HOUSE BILL No. 2082

AN ACT concerning counties; allowing counties to create a code inspection and enforcement fund and expanding the county equipment reserve fund to include electronic technology; allowing counties to create a municipalities fight addiction fund for the expenditure of opioid settlement moneys received pursuant to the Kansas fights addiction act; amending K.S.A. 19-119 and repealing the existing section.

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

New Section 1. (a) The board of county commissioners of any county may provide, by adoption of a resolution, for a code inspection and enforcement fund to finance the operations, equipment and capital needs for authorized functions of such department, including, but not limited to, building, construction, land, water and gas application, inspection, testing and permitting. Such expenses may be supported with charges assessed to building users based on a schedule of fees to be approved and transferred to such fund from any source that may be lawfully utilized for such purposes, including the county general fund.

(b) Expenditures from the fund shall be subject to the budget requirements of K.S.A. 79-2925 through 79-2937, and amendments thereto.

New Sec. 2. (a) The board of county commissioners of any county may provide, by adoption of a resolution, for a municipalities fight addiction fund to finance expenditures incurred as described in K.S.A. 2022 Supp. 75-777, and amendments thereto.

(b) Expenditures from the fund shall be subject to the budget requirements of K.S.A. 79-2925 through 79-2937, and amendments thereto.

(c) The provisions of this section shall be a part of and supplemental to the Kansas fights addiction act, K.S.A. 2022 Supp. 75-775 et seq., and amendments thereto.

Sec. 3. K.S.A. 19-119 is hereby amended to read as follows: 19-119.

(a) The board of county commissioners of any county may provide, by adoption of a resolution, for a county equipment *and technology* reserve fund to finance the acquisition of equipment *and technology*. Moneys may be budgeted and transferred to such fund from any source ~~which~~ *that* may be lawfully utilized for such purposes, including ~~equipment~~ use charges on the various departments and agencies of the county to finance new and replacement equipment *and technology*.

(b) For the purposes of this act, equipment *and technology* shall include machinery, vehicles and any other equipment or personal property including, but not limited to, computer hardware and software, ~~which the county is authorized to purchase for municipal purposes~~ *supplies and technology expenses, including cloud technology costs.*

~~(b)~~(c) Moneys credited to such fund from annually budgeted transfers shall not thereafter be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto. In making the budgets of such county, the amounts credited to, and the amount on hand in, such ~~equipment reserve~~ fund and the amount expended therefrom shall be shown thereon for the information of the taxpayers of such county. Moneys in such fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

~~(e)~~(d) If the board of county commissioners determines that money ~~which~~ *that* has been credited to such fund or any part thereof is not needed for the purposes for which ~~so such moneys have been~~ budgeted or transferred, the board may transfer, by adoption of a resolution, such amount not needed to the fund from which it came and such retransfer and expenditure thereof shall be subject to the budget requirement provisions of K.S.A. 79-2925 ~~to through 79-2937, inclusive,~~ and amendments thereto.

Sec. 4. K.S.A. 19-119 is hereby repealed.

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

Approved April 7, 2023.

CHAPTER 11

HOUSE BILL No. 2080

AN ACT concerning virtual schools; relating to state assessments; authorizing students enrolled in virtual school to take virtual state assessments; amending K.S.A. 72-3711 and repealing the existing section.

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

New Section 1. (a) Any student enrolled in a virtual school on a full-time basis may take any statewide assessment required pursuant to K.S.A. 72-5170, and amendments thereto, in a virtual setting that best meets the educational needs of the student. Any administration of a virtual statewide assessment shall meet the following conditions:

(1) The assessment shall be administered to the student at an assigned date and time;

(2) the assessment shall be administered during a synchronous assessment session initiated and managed by an employee of the virtual school;

(3) the assessment administered in the virtual setting shall be the same assessment administered to students enrolled in a virtual school but taking the assessment in an in-person setting;

(4) the student shall be monitored by the assessment proctor via a camera for the duration of the assessment. If the assessment platform does not allow for integrated camera proctoring, the student shall use two devices during the assessment. The first device shall be used to take the assessment and the second device shall have a functioning camera and be used to monitor the student during the assessment;

(5) the device on which the student takes the assessment shall have browser lockdown software in operation for the duration of the assessment to prohibit internet browser usage by the student;

(6) the student to proctor ratio during the administration of an assessment shall be 10 to one or lower;

(7) the student shall not exit the assessment platform until instructed to do so by the proctor; and

(8) the completed assessment shall be verified by the assessment administrator.

(b) Any costs incurred by the state department of education in implementing the provisions of this section shall be paid for from the department's funds for administering all statewide assessments.

(c) This section shall be a part of and supplemental to the virtual school act.

Sec. 2. K.S.A. 72-3711 is hereby amended to read as follows: 72-3711. K.S.A. 72-3711 through 72-3715, and amendments thereto, *and section 1, and amendments thereto*, shall be known and may be cited as the virtual school act.

Sec. 3. K.S.A. 72-3711 is hereby repealed.

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

Approved April 7, 2023.

CHAPTER 12

HOUSE BILL No. 2226

AN ACT concerning the state corporation commission; relating to the Kansas underground utility damage prevention act; extending the time period for notice for excavations; permitting virtual whitelining of excavation sites; amending K.S.A. 66-1804 and 66-1810 and K.S.A. 2022 Supp. 66-1802, 66-1805 and 66-1806 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 66-1802 is hereby amended to read as follows: 66-1802. As used in this act:

(a) “Damage” means any impact or contact with an underground facility, its appurtenances or its protective coating, or any weakening of the support for the facility or protective housing ~~which~~ *that* requires repair.

(b) “Electric public utility” means the same as such term is defined in K.S.A. 66-101a, and amendments thereto.

(c) “Emergency” means any condition constituting a clear and present danger to life, health or property, or a customer service outage.

(d) “Excavation” means any operation in which earth, rock or other material below the surface is moved or otherwise displaced by any means, except tilling the soil for normal agricultural purposes, or railroad or road and ditch maintenance that does not change the existing railroad grade, road grade and/or ditch flowline, or operations related to exploration and production of crude oil or natural gas, or both.

(e) “Excavator” means any person who engages directly in excavation activities within the state of Kansas, but shall not include any occupant of a dwelling who: (1) Uses such dwelling as a primary residence; and (2) excavates on the premises of such dwelling.

(f) “Facility” means any sanitary sewer or underground line, system or structure used for transporting, gathering, storing, conveying, transmitting or distributing potable water, gas, electricity, communication, crude oil, refined or processed petroleum, petroleum products or hazardous liquids. “Facility” ~~shall does~~ not include, ~~any stormwater sewers or:~~

(1) Production petroleum lead lines, salt water disposal lines or injection lines, ~~which that~~ *are not* located on platted land or ~~inside~~ *outside* the corporate limits of any city; or

(2) *any stormwater sewers.*

(g) “Locatable facility” means facilities for which the tolerance zone can be determined by the operator using generally accepted practices such as as-built construction drawings, system maps, probes, locator devices or any other type of proven technology for locating.

(h) “Marking” means the use of stakes, paint, flags or other clearly identifiable materials to show the field location of underground facilities, in accordance with the rules and regulations promulgated by the

state corporation commission in the administration and enforcement of this act.

(i) “Municipality” means any city, county, municipal corporation, public district or public authority located in whole or in part within this state ~~which~~ *that* provides firefighting, law enforcement, ambulance, emergency medical or other emergency services.

(j) “Notification center” means the statewide communication system operated by an organization which has as one of its purposes to receive and record notification of planned excavation in the state from excavators and to disseminate such notification of planned excavation to operators who are members and participants.

(k) “Operator” means any person who owns or leases an underground tier 1 or tier 2 facility, except for any person who is the owner of real property wherein is located underground facilities for the purpose of furnishing services or materials only to such person or occupants of such property.

An electric public utility shall not be considered an operator of any portion of an underground facility that is on another person’s side of the point where ownership of the facility changes from the electric public utility to another person as determined by the electric public utility’s rules and regulation, tariffs, service or membership agreement or other similar documents.

(l) “Preengineered project” means a public project or a project ~~which~~ *that* is approved by a public agency wherein the public agency responsible for the project, as part of its engineering and contract procedures, holds a meeting prior to the commencement of any construction work on such project in which all persons, determined by the public agency to have underground facilities located within the construction area of the project, are invited to attend and given an opportunity to verify or inform the public agency of the location of their underground facilities, if any, within the construction area and where the location of all known and underground facilities are duly located or noted on the engineering drawing as specifications for the project.

(m) “Permitted project” means a project where a permit for the work to be performed must be issued by a city, county, state or federal agency and, as a prerequisite to receiving such permit, the applicant must ~~locate~~ *serve notice of intent of excavation to* all operators of underground facilities in the area of the work and in the vicinity of the excavation ~~and notify each owner of such underground facilities.~~

(n) “Person” means any individual, partnership, corporation, association, franchise holder, state, city, county or any governmental subdivision or instrumentality of a state and its employees, agents or legal representatives.

(o) “Production petroleum lead line” means an underground facility used for production, gathering or processing on the lease or unit, or for delivery of hydrocarbon gas ~~and/or~~ *or* liquids to an associated tank battery, separator or sales facility. “Production petroleum lead lines” ~~shall include~~ *includes* underground lines associated with lease fuel and saltwater disposal and injection.

(p) “Platted land” means a tract or parcel of land ~~which~~ *that* has been subdivided into lots of less than five acres for the purpose of building developments, including housing developments, and for which a surveyor’s plat has been filed of record in the office of the register of deeds in the county where the land is located.

(q) “Tier 1 facility” means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing gas, electricity, communications, crude oil, refined or reprocessed petroleum, petroleum products or hazardous liquids.

(r) “Tier 2 facility” means an underground facility used for transporting, gathering, storing, conveying, transmitting or distributing potable water or sanitary sewage.

(s) “Tier 3 facility” means a water or wastewater system utility ~~which~~ *that* serves more than 20,000 customers who elects to be a tier 3 member of the notification center pursuant to this subsection. The operator of a tier 3 facility shall:

(1) Develop and operate a locate service website capable of receiving locate requests;

(2) publish and maintain a dedicated telephone number for locate services;

(3) maintain 24-hour response capability for emergency locates; and

(4) employ not less than two individuals whose primary job function shall be the location of underground utilities. Operators of tier 3 facilities shall make either such website or contact information available to the notification center. The notification center shall collect and charge a fee of \$500 a year for each tier 3 facility. No other fee, charge or cost shall be assessed to a tier 3 facility by the notification center. Tier 3 members shall be subject to all provisions of K.S.A. 66-1801 et seq., and amendments thereto.

(t) “Tolerance zone” means the area ~~not less~~ *more* than 24 inches of the outside dimensions in all horizontal directions of an underground facility, except that a larger tolerance zone for a tier 1, 2 or 3 facility may be established by rules and regulations adopted under K.S.A. 66-1815, and amendments thereto. An operator of a water or wastewater facility may elect to use a tolerance zone for such water or wastewater facility in which tolerance zone means the area ~~not less~~ *more* than 60 inches of the outside dimensions in all horizontal directions of an underground water or wastewater facility upon notification of the excavator, except that a larger

tolerance zone may be established by rules and regulations adopted under K.S.A. 66-1815, and amendments thereto.

(u) “Update” means an additional request from the excavator to extend the time period of the request for intent to excavate beyond the ~~15~~ 20 calendar day duration of the request.

(v) “Whitelineing” means the act of marking by the excavator the route or boundary of the proposed excavation site with white paint, white stakes or white flags or identifying such route or boundary by other technology developed for such purposes.

(w) “Working day” means every day Monday through Friday beginning at 12:01 a.m., except for the following officially recognized holidays: New Year’s day, Memorial day, Independence day, Labor day, Thanksgiving day, the day after Thanksgiving and Christmas.

Sec. 2. K.S.A. 66-1804 is hereby amended to read as follows: 66-1804.

(a) Except in the case of an emergency, an excavator shall serve notice of intent of excavation at least two full working days, but not more than ~~15~~ 20 calendar days before the scheduled excavation start date, on each operator having underground tier 1 facilities located in the proposed area of excavation.

(b) An excavator may serve notice of intent of excavation at least two full working days, but not more than ~~15~~ 20 calendar days before the scheduled excavation start date, on each operator of tier 2 facilities located in the proposed area of excavation.

(c) The notice of intent to excavate or any subsequent updates shall be valid for ~~15~~ 20 calendar days after the excavation start date and such notice shall only describe an area in which the proposed excavation reasonably can be completed within the ~~15~~ 20 calendar days.

(d) *Notwithstanding the provisions of subsections (a) through (c), the state corporation commission may adjust the extent of time that a notice of intent to excavate is valid in accordance with rules and regulation adopted by the commission pursuant to K.S.A. 66-1815, and amendments thereto.*

(e) No person shall make repeated requests for remarking unless the request is due to circumstances not reasonably within the control of such person.

~~(e)~~(f) The notice of intent of excavation shall contain the name, address and telephone number of the person filing the notice of intent, the name of the excavator, the date the excavation activity is to commence and the type of excavation being planned. The notice shall also contain the specific location of the excavation.

~~(f)~~(g) The person filing the notice of intent to excavate shall, at the request of the operator, whiteline the proposed excavation site ~~when the excavation location cannot be described with sufficient detail to enable the operator to ascertain the location of the proposed excavation.~~

~~(g)~~(h) The provisions of this section shall not apply to a preengineered project or a permitted project, except that the excavators shall be required to give notification in accordance with this section prior to starting such project.

Sec. 3. K.S.A. 2022 Supp. 66-1805 is hereby amended to read as follows: 66-1805. (a) This act recognizes the establishment of a single notification center for the state of Kansas. Each operator who has an underground facility shall become a member of the notification center.

(b) For operators of tier 1 facilities or operators of tier 2 facilities that desire notification in the same manner as operators of tier 1 facilities, the notification center shall provide prompt notice of any proposed excavation *or report of damage or contact with underground facility* to each affected operator that has facilities recorded with the notification center in the area of a proposed excavation site.

(c) For operators of tier 2 facilities that desire direct contact with the excavator, the notification center shall provide the excavator with the name and contact information of the affected operator that has facilities recorded with the notification center in the area of the proposed excavation.

(d) Notification to operators as defined in subsection (b) shall be given by notifying the notification center by telephone at the toll free number or by other communication methods approved by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

(e) Notification to operators as defined in subsection (c) may be given by notifying the operator of tier 2 facilities using the contact information provided by the notification center. The content of such notification shall be as required by K.S.A. 66-1804, and amendments thereto.

(f) Each operator who has an underground facility within the state shall be afforded the opportunity to become a member of the notification center on the same terms as the original members.

(g) A suitable record shall be maintained by the notification center to document the receipt of notices from excavators as required by this act.

(h) A suitable record shall be maintained by operators of tier 2 facilities that desire direct contact with the excavator pursuant to subsection (c) to document the receipt of notices from excavators.

(i) The notification center shall charge and collect an annual membership fee in the amount of \$25 from each tier 2 facility member.

(j) The notification center shall charge a referral fee to tier 2 facility members in an amount no more than 50% of the referral fee rate charged to tier 1 facility members.

~~(k) Upon request of the operator, the person filing the notice of intent to excavate shall whitelist the proposed excavation site prior to locates being performed.~~

(4) The notification center established pursuant to this section shall be and is hereby deemed to be a public agency and shall be subject to the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, except that the notification center or board of directors, or successor managing organization, shall not disseminate, make available or otherwise distribute data or information provided by an operator of a tier 1, 2 or 3 facility unless such dissemination, making available or distributing is necessary for the state corporation commission or the notification center to carry out legal duties or specific statutory duties prescribed under this chapter.

~~(m)(l)~~ On and after July 1, 2009, The notification center's board of directors shall include two members from tier 2 facilities and one member from tier 3 facilities.

~~(n)(m)~~ The notification center shall prepare an annual report ~~which~~ that describes the activities of such center. An annual audit of the notification center shall be conducted by an independent certified public accountant. The notification center shall provide copies of such reports to each member of the notification center and shall be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

~~(o)(n)~~ The notification center shall solicit proposals for operation of the notification center not more than every five years which shall be awarded in an open meeting by the board of directors of the notification center. The bidding process prescribed by this subsection shall be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto.

~~(p)(o)~~ The notification center shall conduct a cost of service audit not more than every five years or as otherwise requested by the board of directors of the notification center or a majority of the members of such center.

~~(q)(p)~~ On and after July 1, 2019, The notification center shall notify any person or excavator requesting identification of the location of underground facilities that utilities are only required to identify the location of utility-owned facilities and are not required to identify the location of privately owned facilities.

Sec. 4. K.S.A. 2022 Supp. 66-1806 is hereby amended to read as follows: 66-1806. (a) ~~Within two working days~~ *Except as provided by subsection (j)*, beginning on the later of the first working day after the excavator has filed notice of intent to excavate or the first day after the excavator has whitelined the excavation site, an operator served with notice, unless otherwise agreed between the parties, shall inform the excavator of the tolerance zone of the underground facilities of the operator in the area of the planned excavation by marking, flagging or other acceptable method.

(b) If the operator of tier 2 facilities cannot accurately mark the tolerance zone, such operator shall mark the approximate location to the best

of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

(c) The operator of tier 2 facilities shall not be required to provide notification of the tolerance zone for facilities ~~which~~ *that* are at a depth at least two feet deeper than the excavator plans to excavate but does have to notify the excavator of their existence.

(d) (1) If the operator of a tier 1 facility has no underground facilities in the area of the proposed excavation, such operator, before the excavation start date, shall notify the excavator that it has no facilities in the area of proposed excavation by telephone, facsimile, marking the area all clear or by other technology that may be developed for such purposes.

(2) If the operator of a tier 1 facility is a provider of electricity, the duty of the operator to mark shall not extend to another person's side of the point where ownership of the facility changes from the operator to another person as determined by the operator's rules and regulations, tariffs, service or membership agreements or other similar documents.

~~(e) If the excavator notifies the notification center, within two working days after the initial identification of the tolerance zone by the operator, that the identifiers have been improperly removed or altered, the operator shall make a reasonable effort to reidentify the tolerance zone within one working day after the operator receives actual notice from the notification center.~~

~~(f)~~ If the excavator has provided notice to an operator pursuant to K.S.A. 66-1804, and amendments thereto, and the operator fails to comply with subsections (a), (b) or (c) or notifies the excavator that it has no underground facilities in the area of the planned excavation, the excavator may proceed and shall not be liable to the operator for any direct or indirect damages resulting from contact with the operator's facilities, except that nothing in this act shall be construed to hold any excavator harmless from liability to the operator in those cases of gross negligence or willful and wanton conduct.

~~(g)~~(f) For economic damages in any civil court of this state, failure of an operator to inform the excavator ~~within two working days before the excavation start date~~ of the tolerance zone of the underground facilities of the operator in the manner required by K.S.A. 66-1806(a), and amendments thereto, shall not give rise to a cause of action on the part of the excavator against an operator, except that nothing in this act shall be construed to hold any operator harmless from liability in those cases of inaccurate marking of the tolerance zone, gross negligence or willful and wanton conduct. Such failure may subject an operator to civil penalties as determined by the state corporation commission.

~~(h)~~(g) Any person claiming that an operator has failed to inform the excavator within two working days of the tolerance zone of the under-

ground facilities of the operator shall file a complaint with the state corporation commission requesting enforcement of subsection (a) within one year of becoming aware of the violation.

(h) All tier 1 facilities installed by an operator after January 1, 2003, shall be locatable.

(i) All tier 2 facilities installed by an operator after July 1, 2008, shall be locatable.

(j) *Notwithstanding the provisions of subsection (a), the maximum number of days allowed to an operator for providing the location of the tolerance zone may be adjusted by the state corporation commission in accordance with rules and regulations.*

Sec. 5. K.S.A. 66-1810 is hereby amended to read as follows: 66-1810. When any contact with or damage to any underground facility occurs, ~~the operator shall be informed immediately by the excavator~~ *shall immediately notify the operator and the notification center.* Upon receiving such notice, the operator immediately shall dispatch personnel to the location to provide necessary temporary or permanent repair of the damage. If the protective covering of an electrical line is penetrated or dangerous gases or fluids are escaping from a broken line, the excavator immediately shall inform emergency personnel of the municipality in which such electrical short or broken line is located and take any other action as may be reasonably necessary to protect persons and property and to minimize hazards until arrival of the operator's personnel, emergency medical responders or first responders.

Sec. 6. K.S.A. 66-1804 and 66-1810 and K.S.A. 2022 Supp. 66-1802, 66-1805 and 66-1806 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after January 1, 2024, and its publication in the statute book.

Approved April 7, 2023.

CHAPTER 13

HOUSE BILL No. 2238*

AN ACT concerning education; relating to student athletes; creating the fairness in women's sports act; restricting participation on women's teams to female students; providing a cause of action for violations of the act.

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

Section 1. The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the fairness in women's sports act.

Sec. 2. As used in sections 1 through 6, and amendments thereto:

(a) "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen or subjective experience of gender;

(b) "postsecondary educational institution" means the same as defined in K.S.A. 74-3201b, and amendments thereto;

(c) "private postsecondary educational institution" means any private postsecondary educational institution as defined in K.S.A. 74-32,163, and amendments thereto, or any accredited independent institution as defined in K.S.A. 72-3222, and amendments thereto;

(d) "public educational entity" means any public school or postsecondary educational institution;

(e) "public school" means any elementary or secondary school maintained and operated by a school district; and

(f) "school" means any nonpublic school offering any of the grades kindergarten through 12.

Sec. 3. (a) Interscholastic, intercollegiate, intramural or club athletic teams or sports that are sponsored by a public educational entity or any school or private postsecondary educational institution whose students or teams compete against a public educational entity shall be expressly designated as one of the following based on biological sex:

- (1) Males, men or boys;
- (2) females, women or girls; or
- (3) coed or mixed.

(b) Athletic teams or sports designated for females, women or girls shall not be open to students of the male sex.

(c) (1) The Kansas state high school activities association shall adopt rules and regulations for its member schools to implement the provisions of this section.

(2) The state board of regents and the governing body for each municipal university, community college and technical college shall adopt rules

and regulations for the postsecondary educational institutions governed by each such entity, respectively, to implement the provisions of this section.

Sec. 4. No governmental entity, licensing or accrediting organization or athletic association or organization shall entertain a complaint, open an investigation or take any other adverse action against a public educational entity for maintaining separate interscholastic, intercollegiate, intramural or club athletic teams or sports for students of the female sex.

Sec. 5. (a) Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a violation of section 3, and amendments thereto, shall have a private cause of action for injunctive relief, damages and any other relief available under law against the public educational entity in which the student is enrolled.

(b) Any student who is subject to retaliation or other adverse action by a public educational entity or athletic association or organization as a result of reporting a violation of section 3, and amendments thereto, to an employee or representative of such public educational entity or athletic association or organization, or to any state or federal agency with oversight of public educational entities in this state, shall have a private cause of action for injunctive relief, damages and any other relief available under law against such public educational entity or athletic association or organization.

(c) Any public educational entity that suffers any direct or indirect harm as a result of a violation of section 3 or 4, and amendments thereto, shall have a private cause of action for injunctive relief, damages and any other relief available under law against the governmental entity, licensing or accrediting organization or athletic association or organization.

(d) All civil actions must be initiated within two years after the harm occurred. Persons or organizations who prevail on a claim brought pursuant to this section shall be entitled to monetary damages, including for any psychological, emotional and physical harm suffered, reasonable attorney fees and costs and any other appropriate relief.

Sec. 6. The provisions of sections 1 through 5, and amendments thereto, are hereby declared to be severable. If any provision of sections 1 through 5, and amendments thereto, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of sections 1 through 5, and amendments thereto, that can be given effect without the invalid provision or application.

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

Governor's veto overridden.

(See Messages from the Governor)

CERTIFICATE

In accordance with K.S.A. 45-304, it is certified that **HB 2238**, was not approved by the Governor on March 17, 2023; was returned by the Governor with her objections and approved on April 5, 2023 by two-thirds of the members elected to the House of Representatives notwithstanding the objections of the Governor; was reconsidered by the Senate and was approved on April 5, 2023 by two-thirds of the members elected to the Senate, notwithstanding the objections, the bill did pass and shall become law.

This certificate is made this 6th day of April 2023, by the President of the Senate and Secretary of the Senate and the Speaker of the House and Chief Clerk of the House.

Ty Masterson

President of the Senate

Corey Carnahan

Secretary of the Senate

Daniel R. Hawkins

Speaker of the House of Representatives

Susan W. Kannarr

Chief Clerk of the House of Representatives

CHAPTER 14

SENATE BILL No. 120

AN ACT concerning water; relating to water infrastructure projects; authorizing the secretary of health and environment to adopt rules and regulations for an annual certification program for the replacement of distributions systems segments; increasing the amortization period on loans from the Kansas water pollution control revolving fund; amending K.S.A. 65-163 and 65-3326 and repealing the existing sections.

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

Section 1. K.S.A. 65-163 is hereby amended to read as follows: 65-163. (a) (1) No person shall operate a public water supply system within the state without a public water supply system permit from the secretary. An application for a public water supply system permit shall be submitted for review and approval prior to construction and shall include:

(A) A copy of the plans and specifications for the construction of the public water supply system or the extension thereof;

(B) a description of the source from which the water supply is to be derived;

(C) the proposed manner of storage, purification or treatment for the supply; and

(D) such other data and information as required by the secretary of health and environment. No source of water supply in substitution for or in addition to the source described in the application or in any subsequent application for which a public water supply system permit is issued shall be used by a public water supply system, nor shall any change be made in the manner of storage, purification or treatment of the water supply without an additional public water supply system permit obtained in a manner similar to that prescribed by this section from the secretary.

(2) Whenever application is made to the secretary for a public water supply system permit under the provisions of this section, it shall be the duty of the secretary to examine the application without delay and, as soon as possible thereafter, to grant or deny the public water supply system permit subject to any conditions ~~which~~ *that* may be imposed by the secretary to protect the public health and welfare.

(3) The secretary may adopt rules and regulations establishing a program of annual certification by public water supply systems that have staff qualified to approve the extension of distribution systems *or the replacement of segments of distribution systems* without the necessity of securing an additional permit for the extension *or replacement* provided the plans for the extension *or replacement* are prepared by a professional engineer as defined by K.S.A. 74-7003, and amendments thereto.

(b) (1) Whenever a complaint is made to the secretary by any city of the state, by a local health officer, or by a county or joint board of health

concerning the sanitary quality of any water supplied to the public within the county in which the city, local health officer or county or joint board of health is located, the secretary shall investigate the public water supply system about which the complaint is made. Whenever the secretary has reason to believe that a public water supply system within the state is being operated in violation of an applicable state law or an applicable rule and regulation of the secretary, the secretary may investigate the public water supply system.

(2) Whenever an investigation of any public water supply system is undertaken by the secretary, it shall be the duty of the supplier of water under investigation to furnish to the secretary information to determine the sanitary quality of the water supplied to the public and to determine compliance with applicable state laws and rules and regulations. The secretary may issue an order requiring changes in the source or sources of the public water supply system or in the manner of storage, purification or treatment utilized by the public water supply system before delivery to consumers, or distribution facilities, collectively or individually, as may in the secretary's judgment be necessary to safeguard the sanitary quality of the water and bring about compliance with applicable state law and rules and regulations. The supplier of water shall comply with the order of the secretary.

(c) (1) As used in this subsection ~~(e)~~, "municipal water treatment residues" means any solid, semisolid or liquid residue generated during the treatment of water in a public water supply system treatment works.

(2) A public water supply system may place or store municipal water treatment residues resulting from sedimentation, coagulation or softening treatment processes in basins on land under the ownership and control of the public water supply system operator provided that such storage or placement is approved and permitted by the secretary under this section as part of the public water supply system.

(3) The secretary shall adopt uniform and comprehensive rules and regulations for the location, design and operation of such basins. Such rules and regulations shall require permit applications by the public water suppliers for such basins to include a copy of the plans and specifications for the location and construction of each basin, the means of conveyance of the treatment residues to such basins, the content of treatment residues, the proposed method of basin operation and closure, the method of any anticipated expansion and any other data and information required by the secretary.

(4) Whenever complaint is made to the secretary by the mayor of any city of the state, by a local health officer or by a county or joint board of health, or whenever an investigation is undertaken at the initiative of the secretary, relating to any alleged violation of the provisions of the permit for placement or storage of municipal water treatment residues in such

basins, the public water supply system operator shall furnish all information the secretary requires. If the secretary finds that there is any violation of the terms of the permit, that the means of placement and storage exceed the terms of the permit or that any other condition exists by reason of the means of placement and storage that may be detrimental to the health of any inhabitants of the state or to the environment, the secretary shall have the authority to issue an order amending the permit or otherwise requiring the operator to perform remedial measures to curtail or prevent such detrimental conditions.

(d) Orders of the secretary under this section, and hearings thereon, shall be subject to the provisions of the Kansas administrative procedure act. Any action of the secretary pursuant to this section is subject to review in accordance with the Kansas judicial review act. The court on review shall hear the case without delay.

(e) The secretary shall establish by rule and regulation a system of fees for the inspection and regulation of public water supplies. No such fee shall exceed \$.002 per 1,000 gallons of water sold at retail by a public water supply system. All such fees shall be paid quarterly in the manner provided for fees imposed on retail sales by public water supply systems pursuant to K.S.A. 82a-954, and amendments thereto. The secretary shall remit all moneys collected for such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the public water supply fee fund created by K.S.A. 65-163c, and amendments thereto.

(f) There is hereby created an advisory committee to make recommendations regarding:

- (1) Fees to be adopted by the secretary under subsection (e);
- (2) means of strengthening on-site technical assistance to public water supply systems;
- (3) standards for on-site and classroom water treatment operator certification programs;
- (4) other matters concerning public water supplies; and
- (5) to advise the secretary regarding expenditure of moneys in the public water supply fee fund created by K.S.A. 65-163c, and amendments thereto. Such advisory committee shall consist of one member appointed by the secretary to represent the department of health and environment, one member appointed by the director of the Kansas water office to represent such office and two members appointed by the secretary as follows: One from three nominations submitted by the Kansas section of the American waterworks association, and one from three nominations submitted by the Kansas rural water association. Members of the advisory committee shall serve without compensation or reimbursement of

expenses. The advisory committee shall meet at least four times each year on call of the secretary or a majority of the members of the committee.

Sec. 2. K.S.A. 65-3326 is hereby amended to read as follows: 65-3326. (a) Municipalities ~~which~~ *that* desire the provision of a loan under K.S.A. 65-3321 through 65-3329, *and amendments thereto*, shall submit an application therefor to the secretary. Applications shall be in such form and shall include such information as the secretary shall require and shall be submitted in a manner and at a time to be determined by the secretary.

(b) The secretary may enter into agreements with any municipality for the provision of a loan thereto for payment of all or a part of project costs and any municipality may enter into such an agreement and may accept such loan when so authorized by its governing body. The purposes of the loan to be provided, the amount thereof, the interest rate thereon, and the repayment terms and conditions thereof, all of which may vary among municipalities, shall be included in the agreements. Loans shall be provided at or below market interest rates and may be provided interest free. All such agreements shall require that municipalities establish a dedicated source of revenue for repayment of the loans as provided in K.S.A. 65-3327, *and amendments thereto*. Such agreements shall further provide that repayment of any loan received shall begin not later than one year after completion of the project ~~and that~~. *For agreements entered into on or before June 30, 2023, such loan shall be repaid in full no not later than 20 years thereafter. On and after July 1, 2023, agreements for loans shall provide that such loans shall be repaid in full not later than 30 years thereafter.*

(c) In the event any municipality to which a loan is made available under K.S.A. 65-3321 through 65-3329, *and amendments thereto*, fails to enter into an agreement with the secretary for the provision of such loan in accordance with the requirements of such statutes, the secretary is authorized to make the amount of the loan available for one or more other projects on the project priority list.

(d) The secretary shall provide any municipality, upon ~~its~~ request, with technical advice and assistance regarding a project or an application for a loan for the payment of all or a part of project costs.

Sec. 3. K.S.A. 65-163 and 65-3326 are hereby repealed.

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

Approved April 10, 2023.

CHAPTER 15

Substitute for HOUSE BILL No. 2121

AN ACT concerning crimes, punishment and criminal procedure; relating to trials; speedy trial; extending the suspension and providing that time during the COVID-19 public health emergency shall not be assessed against the state; amending K.S.A. 2022 Supp. 22-3402 and repealing the existing section.

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

Section 1. K.S.A. 2022 Supp. 22-3402 is hereby amended to read as follows: 22-3402. (a) If any person charged with a crime and held in jail solely by reason thereof shall not be brought to trial within 150 days after such person's arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant or a continuance shall be ordered by the court under subsection (e).

(b) If any person charged with a crime and held to answer on an appearance bond shall not be brought to trial within 180 days after arraignment on the charge, such person shall be entitled to be discharged from further liability to be tried for the crime charged, unless the delay shall happen as a result of the application or fault of the defendant, or a continuance shall be ordered by the court under subsection (e).

(c) If any trial scheduled within the time limitation prescribed by subsection (a) or (b) is delayed by the application of or at the request of the defendant, the trial shall be rescheduled within 90 days of the original trial deadline.

(d) After any trial date has been set within the time limitation prescribed by subsection (a), (b) or (c), if the defendant fails to appear for the trial or any pretrial hearing, and a bench warrant is ordered, the trial shall be rescheduled within 90 days after the defendant has appeared in court after apprehension or surrender on such warrant. However, if the defendant was subject to the 180-day deadline prescribed by subsection (b) and more than 90 days of the original time limitation remain, then the original time limitation remains in effect.

(e) For those situations not otherwise covered by subsection (a), (b) or (c), the time for trial may be extended for any of the following reasons:

(1) The defendant is incompetent to stand trial. If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled as soon as practicable and in any event within 90 days of such finding;

(2) a proceeding to determine the defendant's competency to stand trial is pending. If the defendant is subsequently found to be competent to stand trial, the trial shall be scheduled as soon as practicable and in any event within 90 days of such finding. However, if the defendant was subject to the 180-day deadline prescribed by subsection (b) and more

than 90 days of the original time limitation remain, then the original time limitation remains in effect. The time that a decision is pending on competency shall never be counted against the state;

(3) there is material evidence ~~which~~ *that* is unavailable; ~~that~~, reasonable efforts have been made to procure such evidence; and ~~that~~ there are reasonable grounds to believe that such evidence can be obtained and trial commenced within the next succeeding 90 days. Not more than one continuance may be granted *to* the state on this ground, unless for good cause shown, where the original continuance was for less than 90 days, and the trial is commenced within 120 days from the original trial date; or

(4) because of other cases pending for trial, the court does not have sufficient time to commence the trial of the case within the time fixed for trial by this section. Not more than one continuance of not more than 30 days may be ordered upon this ground.

(f) In the event a mistrial is declared, a motion for new trial is granted or a conviction is reversed on appeal to the supreme court or court of appeals, the time limitations provided for ~~herein~~ *in this section* shall commence to run from the date the mistrial is declared, the date a new trial is ordered or the date the mandate of the supreme court or court of appeals is filed in the district court.

(g) If a defendant, or defendant's attorney in consultation with the defendant, requests a delay and such delay is granted, the delay shall be charged to the defendant regardless of the reasons for making the request, unless there is prosecutorial misconduct related to such delay. If a delay is initially attributed to the defendant, but is subsequently charged to the state for any reason, such delay shall not be considered against the state under ~~subsections~~ *subsection* (a), (b) or (c) and shall not be used as a ground for dismissing a case or for reversing a conviction unless not considering such delay would result in a violation of the constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

(h) When a scheduled trial is scheduled within the period allowed by ~~subsections~~ *subsection* (a), (b) or (c) and is delayed because a party has made or filed a motion, or because the court raises a concern on its own, the time elapsing from the date of the making or filing of the motion, or the court's raising a concern, until the matter is resolved by court order shall not be considered when determining if a violation under ~~subsections~~ *subsection* (a), (b) or (c) has occurred. If the resolution of such motion or concern by court order occurs at a time when less than 30 days remains under the provisions of ~~subsections~~ *subsection* (a), (b) or (c), the time in which the defendant shall be brought to trial is extended 30 days from the date of the court order.

(i) If the state requests and is granted a delay for any reason provided in this ~~statute~~ *section*, the time elapsing because of the order granting the delay shall not be subsequently counted against the state if an appellate

court later determines that the district court erred by granting the state's request unless not considering such delay would result in a violation of the constitutional right to a speedy trial or there is prosecutorial misconduct related to such delay.

(j) The provisions of this section shall be suspended until ~~May 1, 2023~~ *March 1, 2024*, in all criminal cases.

(k) When prioritizing cases for trial, trial courts shall consider relevant factors, including, but not limited to, the:

- (1) Trial court's calendar;
- (2) relative prejudice to the defendant;
- (3) defendant's assertion of the right to speedy trial;
- (4) calendar of trial counsel;
- (5) availability of witnesses; and
- (6) relative safety of the proceedings to participants as a result of the response to the COVID-19 public health emergency in the judicial district.

(l) The office of judicial administration shall prepare and submit a report to the senate standing committee on judiciary and the house of representatives standing committee on judiciary on or before January 17, 2022, and January 16, 2023, containing the following information disaggregated by judicial district:

- (1) The number of pending criminal cases on January 1, 2022, and January 1, 2023, respectively;
- (2) the number of criminal cases resolved during fiscal years 2021 and 2022, respectively, and the method of disposition in each case;
- (3) the number of jury trials conducted in criminal cases during fiscal years 2021 and 2022, respectively; and
- (4) the number of new criminal cases filed in fiscal years 2021 and 2022, respectively.

(m) *No time between March 19, 2020, and March 1, 2024, shall be assessed against the state for any reason. Any person arraigned before March 1, 2024, shall be deemed to have been arraigned on March 1, 2024, for the application of the time limitations provided in subsection (a), (b) or (c).*

(n) The amendments made to this section by ~~this act~~ *section 1 of chapter 12 of the 2021 Session Laws of Kansas* are procedural in nature and shall be construed and applied retroactively.

Sec. 2. K.S.A. 2022 Supp. 22-3402 is hereby repealed.

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

Approved April 10, 2023.

Published in the *Kansas Register* April 20, 2023.

CHAPTER 16

HOUSE BILL No. 2240

AN ACT concerning the department for children and families; relating to qualified residential treatment programs; requiring the clerk of the district court to give notice of placement; amending K.S.A. 38-2291 and repealing the existing section.

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

Section 1. K.S.A. 38-2291 is hereby amended to read as follows: 38-2291. (a) Whenever a child is placed in a qualified residential treatment program, the secretary shall notify the court in writing within seven days of placement. *The clerk of the district court shall give written notice* ~~shall also be given~~ to: (1) The petitioner; (2) the attorney for the parents, if any; (3) each parent at the last known address; (4) the child, if 12 or more years of age; (5) the child's guardian ad litem; (6) any other party or interested party; and (7) the child's court-appointed special advocate.

(b) Within 30 days after a child is placed in a qualified residential treatment program, any person enumerated in subsection (a)(1) through (7) receiving notice as provided above may request, in writing, that the court conduct a hearing. If a hearing is requested, the court shall conduct the hearing within 60 days of placement. The court shall give notice of the hearing to all persons enumerated in subsection (a)(1) through (7).

(c) The secretary shall provide to the court in writing an assessment and documentation of the need for placement in a qualified residential treatment program.

(d) Within 60 days after a child is placed in a qualified residential treatment program, the court shall:

(1) Consider the assessment and documentation provided by the secretary pursuant to subsection (c);

(2) determine whether the needs of the child can be met through placement in a foster family home or, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short-term and long-term goals for the child as specified in the permanency plan for the child; and

(3) approve or disapprove the placement.

(e) This section shall be a part of and supplemental to the revised Kansas code for care of children.

Sec. 2. K.S.A. 38-2291 is hereby repealed.

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

Approved April 10, 2023.

CHAPTER 17

HOUSE BILL No. 2288

AN ACT concerning the behavioral sciences; relating to professional counselors; enacting the counseling compact to provide interstate practice privileges; authorizing the behavioral sciences regulatory board to establish a fee for a home-state license with interstate practice privileges; amending K.S.A. 2022 Supp. 65-5808 and repealing the existing section.

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

New Section 1. This section shall be known and may be cited as the counseling compact.

SECTION 1—PURPOSE

The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

- (a) Increase public access to professional counseling services by providing for the mutual recognition of other member state licenses;
- (b) enhance the states' ability to protect the public's health and safety;
- (c) encourage the cooperation of member states in regulating multi-state practice for licensed professional counselors;
- (d) support spouses of relocating active duty military personnel;
- (e) enhance the exchange of licensure, investigative and disciplinary information among member states;
- (f) allow for the use of telehealth technology to facilitate increased access to professional counseling services;
- (g) support the uniformity of professional counseling licensure requirements throughout the states to promote public safety and public health benefits;
- (h) invest all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time care is rendered through the mutual recognition of member state licenses;
- (i) eliminate the necessity for licenses in multiple states; and
- (j) provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

SECTION 2—DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall apply:

- (a) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national

guard and reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

(b) “Adverse action” means any administrative, civil, equitable or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual’s license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee’s practice or any other encumbrance on licensure affecting a licensed professional counselor’s authorization to practice, including issuance of a cease and desist action.

(c) “Alternative program” means a non-disciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.

(d) “Continuing competence or education” means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work.

(e) “Counseling compact commission” or “commission” means the national administrative body whose membership consists of all states that have enacted the compact.

(f) “Current significant investigative information” means:

(1) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.

(g) “Data system” means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice and adverse action information.

(h) “Encumbered license” means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and said adverse action has been reported to the national practitioners data bank.

(i) “Encumbrance” means a revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.

(j) “Executive committee” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(k) “Home state” means the member state that is the licensee’s primary state of residence.

(l) “Impaired practitioner” means an individual who has a condition or conditions that may impair such individual’s ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment and neurological or physical impairments.

(m) “Investigative information” means information, records and documents received or generated by a professional counseling licensing board pursuant to an investigation.

(n) “Jurisprudence requirement” if required by a member state, means the assessment of an individual’s knowledge of the laws and rules governing the practice of professional counseling in a state.

(o) “Licensed professional counselor” means a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose and treat behavioral health conditions.

(p) “Licensee” means an individual who currently holds an authorization from the state to practice as a licensed professional counselor.

(q) “Licensing board” means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.

(r) “Member state” means a state that has enacted the compact.

(s) “Privilege to practice” means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.

(t) “Professional counseling” means the assessment, diagnosis and treatment of behavioral health conditions by a licensed professional counselor.

(u) “Remote state” means a member state other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

(v) “Rule” means a regulation promulgated by the commission that has the force of law.

(w) “Single-state license” means a licensed professional counselor license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(x) “State” means any state, commonwealth, district or territory of the United States of America that regulates the practice of professional counseling.

(y) “Telehealth” means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose and treat behavioral health conditions.

(z) “Unencumbered license” means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

SECTION 3—STATE PARTICIPATION
IN THE COMPACT

- (a) To participate in the compact, a state must currently:
- (1) License and regulate licensed professional counselors;
 - (2) require licensees to pass a nationally recognized exam approved by the commission;
 - (3) require licensees to have a 60 semester-hour, or 90 quarter-hour, master’s degree in counseling or 60 semester hours, or 90 quarter hours, of graduate coursework including the following areas:
 - (A) Professional counseling orientation and ethical practice;
 - (B) social and cultural diversity;
 - (C) human growth and development;
 - (D) career development;
 - (E) counseling and helping relationships;
 - (F) group counseling and group work;
 - (G) diagnosis and treatment, assessment and testing;
 - (H) research and program evaluation; and
 - (I) other areas as determined by the commission;
 - (4) require licensees to complete a supervised postgraduate professional experience as defined by the commission; and
 - (5) have a mechanism in place for receiving and investigating complaints about licensees.
- (b) A member state shall:
- (1) Participate fully in the commission’s data system, including using the commission’s unique identifier as defined in rules;
 - (2) notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;
 - (3) implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant’s criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state’s criminal records;
 - (A) a member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search and shall use the results in making licensure decisions; and
 - (B) communication between a member state, the commission and among member states regarding the verification of eligibility for licensure

through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under public law 92-544;

- (4) comply with the rules of the commission;
- (5) require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure as well as all other applicable state laws;
- (6) grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and
- (7) provide for the attendance of the state's commissioner to the counseling compact commission meetings.

(c) Member states may charge a fee for granting the privilege to practice.

(d) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(f) A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

SECTION 4—PRIVILEGE TO PRACTICE

(a) To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall:

- (1) Hold a license in the home state;
- (2) have a valid United States social security number or national practitioner identifier;
- (3) be eligible for a privilege to practice in any member state in accordance with section 4(d), (g) and (h) of this compact;
- (4) have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;
- (5) notify the commission that the licensee is seeking the privilege to practice within a remote state;
- (6) pay any applicable fees, including any state fee, for the privilege to practice;
- (7) meet any continuing competence or education requirements established by the home state;
- (8) meet any jurisprudence requirements established by the remote state in which the licensee is seeking a privilege to practice; and

(9) report to the commission any adverse action, encumbrance or restriction on license taken by any non-member state within 30 days from the date the action is taken.

(b) The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of section 4(a) of this compact to maintain the privilege to practice in the remote state.

(c) A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

(d) A licensee providing professional counseling services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines are paid.

(e) If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until the following occur:

(1) The home state license is no longer encumbered; and

(2) the licensee has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(f) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section 4(a) of this compact to obtain a privilege to practice in any remote state.

(g) If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until the following occur:

(1) The specific period of time for which the privilege to practice was removed has ended;

(2) all fines have been paid; and

(3) the individual has not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(h) Once the requirements of section 4(g) of this compact have been met, the licensee must meet the requirements in section 4(a) of this compact to obtain a privilege to practice in a remote state.

SECTION 5—OBTAINING A NEW HOME STATE LICENSE BASED ON A PRIVILEGE TO PRACTICE

(a) A licensed professional counselor may hold a home state license, which allows for a privilege to practice in other member states, in only one member state at a time.

(b) If a licensed professional counselor changes primary state of residence by moving between two member states:

(1) The licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees and notify the current and new home state in accordance with applicable rules adopted by the commission.

(2) Upon receipt of an application for obtaining a new home state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in section 4 of this compact via the data system, without need for primary source verification except for:

(A) A federal bureau of investigation fingerprint-based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with public law 92-544;

(B) other criminal background check as required by the new home state; and

(C) completion of any requisite jurisprudence requirements of the new home state.

(3) The former home state shall convert the former home state license into a privilege to practice once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.

(4) Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in section 4 of this compact, the new home state may apply its requirements for issuing a new single-state license.

(5) The licensed professional counselor shall pay all applicable fees to the new home state in order to be issued a new home state license.

(c) If a licensed professional counselor changes primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

(d) Nothing in this compact shall interfere with a licensee's ability to hold a single-state license in multiple states, however for the purposes of this compact, a licensee shall have only one home state license.

(e) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

SECTION 6—ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change the individual's home state through ap-

plication for licensure in the new state or through the process outlined in section 5 of this compact.

SECTION 7—COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

(a) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with section 3 of this compact and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

(b) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

SECTION 8—ADVERSE ACTIONS

(a) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(1) Take adverse action against a licensed professional counselor's privilege to practice within that member state; and

(2) issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(3) Only the home state shall have the power to take adverse action against a licensed professional counselor's license issued by the home state.

(b) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(c) The home state shall complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

(d) A member state, if otherwise permitted by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensed professional counselor.

(e) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(f) Joint investigations:

(1) In addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(g) If adverse action is taken by the home state against the license of a licensed professional counselor, the licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.

(h) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(i) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

SECTION 9—ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

(a) The compact member states hereby create and establish a joint public agency known as the counseling compact commission:

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) Membership, voting and meetings. (1) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

- (2) The delegate shall be either:
 - (A) A current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or
 - (B) an administrator of the licensing board.
- (3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.
- (4) The member state licensing board shall fill any vacancy occurring on the commission within 60 days.
- (5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.
- (6) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.
- (7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.
- (8) The commission shall by rule establish a term of office for delegates and may by rule establish term limits.
- (c) The commission shall have the following powers and duties:
 - (1) Establish the fiscal year of the commission;
 - (2) establish bylaws;
 - (3) maintain its financial records in accordance with the bylaws;
 - (4) meet and take such actions as are consistent with the provisions of this compact and the bylaws;
 - (5) promulgate rules, which shall be binding to the extent and in the manner provided for in the compact;
 - (6) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;
 - (7) purchase and maintain insurance and bonds;
 - (8) borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state;
 - (9) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;
 - (10) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;
 - (11) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed;

provided that at all times the commission shall avoid any appearance of impropriety;

(12) sell convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

(13) establish a budget and make expenditures;

(14) borrow money;

(15) appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(16) provide and receive information from, and cooperate with, law enforcement agencies;

(17) establish and elect an executive committee; and

(18) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice.

(d) The executive committee. (1) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

(2) The executive committee shall be composed of up to 11 members:

(A) Seven voting members who are elected by the commission from the current membership of the commission; and

(B) up to four ex-officio, nonvoting members from four recognized national professional counselor organizations.

(C) The ex-officio members will be selected by their respective organizations.

(3) The commission may remove any member of the executive committee as provided in bylaws.

(4) The executive committee shall meet at least annually.

(5) The executive committee shall have the following duties and responsibilities:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues and any commission compact fee charged to licensees for the privilege to practice;

(B) ensure compact administration services are appropriately provided, contractual or otherwise;

(C) prepare and recommend the budget;

(D) maintain financial records on behalf of the commission;

(E) monitor compact compliance of member states and provide compliance reports to the commission;

(F) establish additional committees as necessary; and

(G) other duties as provided in rules or bylaws.

(e) Meetings of the commission.

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 11 of this compact.

(2) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting if the commission or executive committee or other committees of the commission must discuss:

(A) Non-compliance of a member state with its obligations under the compact;

(B) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) current, threatened or reasonably anticipated litigation;

(D) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(E) accusing any person of a crime or formally censuring any person;

(F) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) disclosure of investigative records compiled for law enforcement purposes;

(I) disclosure of information related to any investigative reports prepared by, on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(J) matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(f) Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(g) Qualified immunity, defense and indemnification. (1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 10—DATA SYSTEM

(a) The commission shall provide for the development, maintenance, operation and utilization of a coordinated database and reporting system containing licensure, adverse action and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (1) Identifying information;
- (2) licensure data;
- (3) adverse actions against a license or privilege to practice;
- (4) non-confidential information related to alternative program participation;
- (5) any denial of application for licensure, and the reasons for such denial;
- (6) current significant investigative information; and
- (7) other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) Investigative information pertaining to a licensee in any member state will only be available to other member states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 11—RULEMAKING

(a) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the compact. Not-

withstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force or effect.

(b) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(e) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

(2) on the website of each member state professional counseling licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(f) The notice of proposed rulemaking shall include:

(1) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(2) the text of the proposed rule or amendment and the reason for the proposed rule;

(3) a request for comments on the proposed rule from any interested person; and

(4) the manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(g) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(h) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) a state or federal governmental subdivision or agency; or

(3) an association having at least 25 members.

(i) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public

hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings will be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(j) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(k) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed Rule without a public hearing.

(l) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(m) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (1) Meet an imminent threat to public health, safety or welfare;
- (2) prevent a loss of commission or member state funds;
- (3) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (4) protect public health and safety.

(n) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to

the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

SECTION 12—OVERSIGHT,

DISPUTE RESOLUTION AND ENFORCEMENT

(a) Oversight. (1) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) Default, technical assistance and termination. (1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and any other action to be taken by the commission; and

(B) provide remedial training and specific technical assistance regarding the default.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature and each of the member states.

(e) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(g) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(h) Dispute resolution. (1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(i) Enforcement. (1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

SECTION 13—DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 14—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 15—BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.

(b) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(c) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(d) Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

(e) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(f) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 2. K.S.A. 2022 Supp. 65-5808 is hereby amended to read as follows: 65-5808. (a) The board may ~~fix~~ *set* the following fees, and any such fees shall be established by rules and regulations adopted by the board:

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

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

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

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

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

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

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

(8) *for a home-state license with privilege to practice under the counseling compact, not more than \$25 in addition to any other applicable fee;*

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

~~(9)~~(10) for reinstatement of a license, not more than \$175;

~~(10)~~(11) for replacement of a license, not more than \$20;

~~(11)~~(12) for a wallet card license, not more than \$5; and

~~(12)~~(13) for application as a board-approved clinical supervisor, not more than \$50.

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

Sec. 3. K.S.A. 2022 Supp. 65-5808 is hereby repealed.

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

Approved April 10, 2023.

CHAPTER 18

HOUSE BILL No. 2269

AN ACT regarding cigarettes, electronic cigarettes and tobacco products; raising the minimum age for the sale, purchase or possession of such products to 21 years of age; amending K.S.A. 79-3304, 79-3309, 79-3321, 79-3322 and 79-3391 and repealing the existing sections.

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

Section 1. K.S.A. 79-3304 is hereby amended to read as follows: 79-3304. (a) The license fee for each biennium or portion thereof shall be as follows:

- (1) For retail dealer's license, \$25 for each dealer establishment.
- (2) For retailer's license on railroad or sleeping cars, \$50. Only one retail license need be obtained by each railroad or sleeping car company to permit the sale of cigarettes on any or all of its cars within the state.
- (3) For show, carnival or catering license, \$50 for each concession.
- (4) For resident retail dealer's temporary license for a place of business of a temporary nature, \$2 for each seven days or portion thereof.
- (5) For wholesale dealer's license, \$50 for each dealer establishment. No wholesale dealer's license shall be issued until the person applying therefor has filed with the director a bond payable to the state of Kansas in such an amount as shall be fixed by the director, but in no event less than \$1,000, with a corporate surety authorized to do business in the state of Kansas, and approved by the director. If a wholesale dealer is unable to secure a corporate surety bond, the director may issue a license to such wholesale dealer, upon the wholesale dealer furnishing a personal bond meeting the approval of the director. Such bond shall be conditioned on the wholesale dealer's compliance with all the provisions of this act during the license period.
- (6) For vending machine distributor's license, \$50.
- (7) For manufacturer's salesperson license, \$20 for each salesperson. The manufacturer's salesperson shall, with respect to each sale made to a retail dealer, make and deliver to the retail dealer a true invoice wherein such salesperson shall insert the name of the wholesale dealer from whom such salesperson secured such cigarettes, together with such salesperson's own name and the name of the retail dealer purchasing the cigarettes.
- (8) For vending machine operator's license, no fee.
- (9) For vending machine permit, \$25 for each permit.
- (b) An application for any license required under the provisions of this act may be refused to: (1) A person who is not of good character and reputation in the community in which such person resides; or (2) a person who has been convicted of a felony or of any crime involving moral tur-

pititude or of the violation of any law of any state or the United States pertaining to cigarettes or tobacco products and who has not completed the sentence, parole, probation or assignment to a community correctional services program imposed for any such conviction within two years immediately preceding the date of making application for any of such licenses.

(c) The director may refuse to issue or renew a license to any person who:

(1) Has been convicted on or after January 1, 2013, of a felony under the laws of this state or any other state or the United States;

(2) is not current in the payment of any tax or fine under this act;

(3) has had a cigarette license revoked in this state or any other state;

(4) is not at least ~~18~~ 21 years of age;

(5) intends to carry on the business as an agent of another;

(6) at the time of application for renewal of any license issued under this act, would not be eligible for the license upon first application;

(7) does not own the premises for which a license is sought, or does not, at the time of the application, have a written lease;

(8) has been convicted of a crime involving any tax under this act;

(9) is a corporation in which any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:

(A) Has had a license revoked under this act; or

(B) has been convicted of a crime involving any tax under this act; or

(10) is a limited liability company in which any officer, manager or director thereof, or any member owning in the aggregate more than 5% of the limited liability company, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:

(A) Has had a license revoked under this act; or

(B) has been convicted of a crime involving any tax under this act.

Sec. 2. K.S.A. 79-3309 is hereby amended to read as follows: 79-3309.

(a) Whenever the director has reason to believe that any person licensed under this act has violated any of the provisions of this act, in any of the following ways, the director shall notify the person by certified mail of the director's intention to suspend or revoke the person's license or licenses, if the person:

(1) Has been convicted on or after January 1, 2013, of a felony under the laws of this state or any other state or the United States;

(2) is not current in the payment of any tax or fine under this act;

(3) has had a cigarette license revoked in this state or any other state;

(4) is not at least ~~18~~ 21 years of age;

- (5) intends to carry on the business as an agent of another;
 - (6) at the time of application for renewal of any license issued under this act, would not be eligible for the license upon first application;
 - (7) does not own the premises for which a license is sought, or does not, at the time of the application, have a written lease;
 - (8) has been convicted of a crime involving any tax under this act;
 - (9) in the case of a corporation, any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:
 - (A) Has had a license revoked under this act; or
 - (B) has been convicted of a crime involving any tax under this act; or
 - (10) in the case of a limited liability company, any officer, manager or director thereof, or any member owning in the aggregate more than 5% of the limited liability company, has been an officer, manager or director or stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation that:
 - (A) Has had a license revoked under this act; or
 - (B) has been convicted of a crime involving any tax under this act.
- (b) Within 30 days after the mailing of the notice, the person may request a hearing in writing before the director. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If, after such hearing, it appears to the satisfaction of the director that the person has violated any of the provisions of this act, the director is hereby authorized and empowered to suspend or revoke the person's license or licenses and may in addition deny the application of the person for a license or licenses for a portion of the succeeding calendar year for such period as the director determines is necessary, but in no case for a period ending more than one year following the date upon which the license or licenses were suspended or revoked. The suspension or revocation of a vending machine operator's master license shall suspend or revoke all vending machine permits issued to the vending machine operator for the term of the license suspension or revocation.
- (c) If a person continues to engage in activities requiring a license under this act after having notice or knowledge of the suspension or revocation of the person's license or licenses or after becoming more than 10 days delinquent in filing a bond payable to the state of Kansas as required by the director, payment of any fine, tax, penalty or interest imposed pursuant to this act, the state shall be entitled, in any proceedings brought for such purposes, to have an order and judgment restraining and enjoining such unlawful sale and no bond shall be required for the issuance of any such restraining order or injunction.

Sec. 3. K.S.A. 79-3321 is hereby amended to read as follows: 79-3321. It shall be unlawful for any person:

(a) Except as otherwise specifically provided by this act, to possess, sell, transport, import, distribute, wholesale or manufacture more than 1,000 cigarettes without the required tax indicia being affixed as herein provided.

(b) To mutilate or attach to any individual package of cigarettes any stamp that has in any manner been mutilated or that has been heretofore attached to a different individual package of cigarettes or to have in possession any stamps so mutilated.

(c) To prevent the director or any officer or agent authorized by law, to make a full inspection for the purpose of this act, of any place of business and all premises connected thereto where cigarettes are or may be manufactured, sold, distributed, or given away.

(d) To use any artful device or deceptive practice to conceal any violation of this act or to mislead the director or officer or agent authorized by law in the enforcement of this act.

(e) Who is a dealer to fail to produce on demand of the director or any officer or agent authorized by law any records or invoices required to be kept by such person.

(f) Knowingly to make, use, or present to the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods invoiced.

(g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required by this act all the records required by this act to be kept and preserved.

(h) To wholesale cigarettes to any person, other than a manufacturer's salesperson, retail dealer or wholesaler who is:

(1) Duly licensed by the state where such manufacturer's salesperson, retail dealer or wholesaler is located; or

(2) exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs.

(i) To have in possession any evidence of tax indicia provided for herein not purchased from the director.

(j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.

(k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.

(l) To sell, furnish or distribute cigarettes, electronic cigarettes or tobacco products to any person under ~~18~~ 21 years of age.

(m) Who is under ~~18~~ 21 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes or tobacco products.

(n) Who is under ~~18~~ 21 years of age to possess or attempt to possess cigarettes, electronic cigarettes or tobacco products.

(o) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

(p) To sell cigarettes without having a license for such sale as provided herein.

(q) To sell a vending machine without having a vending machine distributor's license.

(r) Who is a retail dealer to fail to post and maintain in a conspicuous place in the dealer's establishment the following notice: "By law, cigarettes, electronic cigarettes and tobacco products may be sold only to persons ~~18~~ 21 years of age and older."

(s) To distribute samples within 500 feet of any school when such facility is being used primarily by persons under ~~18~~ 21 years of age unless the sampling is:

(1) In an area to which persons under ~~18~~ 21 years of age are denied access;

(2) in or at a retail location where cigarettes and tobacco products are the primary commodity offered for sale at retail; or

(3) at or adjacent to an outdoor production, repair or construction site or facility.

(t) To sell cigarettes, electronic cigarettes or tobacco products by means of a vending machine, including vending machines that sell packaged, single cigarettes, in any establishment, or portion of an establishment, which is open to minors, except that this subsection shall not apply to:

(1) The installation and use by the proprietor of the establishment, or by the proprietor's agents or employees, of vending machines behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access; or

(2) the installation and use of a vending machine in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant.

(u) To sell cigarettes, electronic cigarettes or tobacco products by means of a self-service display in any establishment, except that the provisions of this subsection shall not apply to:

(1) A vending machine that is permitted under subsection (t);

(2) a self-service display that is located in a tobacco specialty store; or

(3) a self-service display located in a facility where the retailer ensures that no person younger than ~~18~~ 21 years of age is present or permitted to enter at any time.

(v) To sell or distribute in this state; to acquire, hold, own, possess or transport for sale or distribution in this state; or to import or cause to be imported, into this state for sale or distribution in this state:

(1) Any cigarettes the package of which: (A) Bears any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including, but not limited to, labels stating “For Export Only,” “U.S. Tax-Exempt,” “For Use Outside U.S.” or similar wording; or (B) does not comply with: (i) All requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States, including but not limited to the precise warning labels specified in the federal cigarette labeling and advertising act, 15 U.S.C. § 1333; and (ii) all federal trademark and copyright laws;

(2) any cigarettes imported into the United States in violation of 26 U.S.C. § 5754 or any other federal law, or federal regulations implementing such laws;

(3) any cigarettes that such person otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or

(4) any cigarettes for which there has not been submitted to the secretary of the U.S. department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of such cigarettes required by the federal cigarette labeling and advertising act, 15 U.S.C. § 1335a.

(w) To alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(1) Any statement, label, stamp, sticker or notice described in subsection (v); or

(2) any health warning that is not specified in, or does not conform with, the requirements of, the federal cigarette labeling and advertising act, 15 U.S.C. § 1333.

(x) To affix any stamp required pursuant to K.S.A. 79-3311, and amendments thereto, to the package of any cigarettes described in subsection (v) or altered in violation of subsection (w).

(y) To possess, sell, transport, import, distribute, wholesale or manufacture cigarettes, smokeless tobacco or roll-your-own tobacco in violation of K.S.A. 50-6a01 et seq., and amendments thereto.

(z) To sell cigarettes, smokeless tobacco or roll-your-own tobacco in any manner that is not a direct, face-to-face exchange between the retailer and the consumer, except: (1) Mail-order sales, which shall not include mail-order redemption coupons and distribution of free samples through the mail; (2) vending machines as provided in subsection (t); and (3) self-service displays as provided in subsection (u).

Sec. 4. K.S.A. 79-3322 is hereby amended to read as follows: 79-3322. (a) (1) Except as otherwise provided in this act, a violation of K.S.A. 79-3321(a), (c), (d), (f), (h), (i), (j), (v), (w), (x) or (y), and amendments thereto, is a:

(A) Class A misdemeanor for a first violation, and the offender shall be fined not less than \$1,000 nor more than \$2,500 upon a first conviction;

(B) severity level 6, nonperson felony for a second violation, and the offender shall be fined not less than \$50,000 nor more than \$100,000 upon a second conviction; and

(C) severity level 6, nonperson felony for a third and all subsequent violations, and the offender shall be fined \$100,000 upon a third and all subsequent convictions.

(2) It shall be a defense to prosecution under K.S.A. 79-3321(a), and amendments thereto, that a licensee has: (A) Segregated the cigarettes from public view; (B) marked the cigarettes as not for retail sale to consumers; and (C) within 72 hours of receipt, notified the licensee's wholesale dealer, in writing, that the cigarettes do not bear indicia of Kansas tax and that the wholesale dealer shall remove the cigarettes from the licensee's premises.

(b) Except as provided in subsections (a), (c) or (d), a violation of K.S.A. 79-3321, and amendments thereto, is a class B misdemeanor and upon conviction, an offender shall be fined not less than \$500 nor more than \$1,000 or imprisoned for not more than one year, or both for each separate violation. In addition thereto any person found liable for any license fee or tax imposed under the provisions of this act shall be personally liable for such license fee or tax plus a penalty in an amount equal to 100% thereof.

(c) (1) It is a class B person misdemeanor punishable by a minimum fine of \$200 for any person to: (A) Sell, give or furnish any cigarettes or tobacco products to any person under ~~18~~ 21 years of age; or (B) buy any cigarettes or tobacco products for any person under ~~18~~ 21 years of age.

(2) It shall be a defense to a prosecution under this subsection if: (A) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples; (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person under ~~18~~ 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes or tobacco products; and (C) to purchase or receive the cigarettes or tobacco products, the person under ~~18~~ 21 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes or tobacco products.

(3) It shall be a defense to a prosecution under this subsection if: (A) The defendant engages in the lawful sale, furnishing or distribution of

cigarettes or tobacco products by mail; and (B) the defendant sold, furnished or distributed the cigarettes or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601, and amendments thereto, that the person was ~~18~~ 21 or more years of age.

(4) For purposes of this subsection the person who violates this subsection shall be the individual directly selling, furnishing or distributing the cigarettes or tobacco products to any person under ~~18~~ 21 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.

(d) Violation of K.S.A. 79-3321(m) or (n), and amendments thereto, is a cigarette or tobacco infraction for which the fine is \$25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian.

(e) Any agent, employees or others who aid, abet or otherwise participate in any way in the violation of the Kansas cigarette and tobacco products act or in any of the offenses hereunder punishable shall be guilty and punished as principals to the same extent as any person violating this act.

(f) The secretary of revenue or the secretary's authorized agent may refer such evidence as may be available concerning violations of this act or any rules and regulations or order hereunder to the attorney general or the proper county or district attorney, who may in the prosecutor's discretion, with or without such a reference, institute the appropriate criminal proceedings under this act. Upon receipt of such reference, the attorney general or the county attorney or district attorney may request that a duly employed attorney of the department of revenue prosecute or assist in the prosecution of such violation or violations on behalf of the state. Upon approval of the secretary or the secretary's authorized agent, such employee shall be appointed a special prosecutor for the attorney general or the county attorney or district attorney to serve without compensation from the attorney general or the county attorney or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for assistant attorneys general or assistant county or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the attorney general or the county attorney or district attorney. If an attorney employed by the secretary or secretary's authorized agent acts as a special prosecutor, the secretary may pay extradition and witness expenses associated with the case.

Sec. 5. K.S.A. 79-3391 is hereby amended to read as follows: 79-3391. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the secretary of revenue or the secretary's designee, upon a finding that a person under this act has violated any provision of this act or any provision of any rule and regulation of the secretary of revenue adopted pursuant to this act shall impose on such person a civil fine not exceeding \$1,000 for each violation.

(b) It shall be unlawful for any person, directly or indirectly, to: (1) Sell, give or furnish any cigarettes or tobacco products to any person under ~~18~~ 21 years of age; or (2) buy any cigarettes or tobacco products for any person under ~~18~~ 21 years of age. In determining the fine to be imposed under this subsection by a licensed retail dealer whose employee sold, furnished or distributed the cigarettes or tobacco products, the secretary of revenue or the secretary's designee shall consider it to be a mitigating circumstance if the employee had completed a training program, approved by the secretary of revenue or the secretary's designee, in avoiding sale, furnishing or distributing of cigarettes and tobacco products to persons under ~~18~~ 21 years of age.

(c) No fine shall be imposed pursuant to this section except upon the written order of the secretary of revenue or the secretary's designee to the licensee who committed the violation. Such order shall state the violation, the fine to be imposed and the right of the licensee to appeal the order. Such order shall be subject to appeal and review in the manner provided by the Kansas administrative procedure act.

(d) Any fine collected pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund.

(e) There is hereby created, in the state treasury, the cigarette and tobacco products regulation fund. Moneys in the fund shall be expended only for the enforcement of this act and rules and regulations adopted pursuant to this act. Such expenditures shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of revenue or a person designated by the secretary.

(f) If a person violates subsection (b) for a second or subsequent occurrence within a three-year period, the secretary may impose a graduated fine upon such person for the second or subsequent occurrence. For the purposes of imposing a fine under this section, if three or more years have elapsed since a person has been found to have violated the provisions of subsection (b), such person shall be treated as never having violated subsection (b).

Sec. 6. K.S.A. 79-3304, 79-3309, 79-3321, 79-3322 and 79-3391 are hereby repealed.

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

Approved April 10, 2023.

CHAPTER 19

SENATE BILL No. 144

AN ACT concerning the video competition act; exempting providers of broadcast satellite services and video programming delivered over the internet from the provisions of such act; amending K.S.A. 12-2022 and repealing the existing section.

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

Section 1. K.S.A. 12-2022 is hereby amended to read as follows: 12-2022. For purposes of the video competition act:

(a) “Cable service” ~~is means the same as defined as set forth~~ in 47 U.S.C. § 522.

(b) “Cable operator” ~~is means the same as defined as set forth~~ in 47 U.S.C. § 522.

(c) “Cable system” ~~is means the same as defined as set forth~~ in 47 U.S.C. § 522.

(d) “Communications service” means information service or telecommunications service as defined in 47 U.S.C. § 153.

(e) “Competitive video service provider” means an entity providing video service that is not franchised as a cable operator in the state of Kansas as of the effective date of this act and is not an affiliate, successor or assign of such cable operator.

(f) “Franchise” means an initial authorization, or renewal of an authorization, issued by a municipality, regardless of whether the authorization is designed as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, that authorizes the construction and operation of a cable system.

(g) “Micro wireless facility” means equipment at a fixed location that is:

(1) Installed on cables that are owned and operated by a video service provider between utility poles as defined in K.S.A. 66-2019, and amendments thereto;

(2) used to provide communications service; and

(3) not larger in dimension than 24 inches in length, 15 inches in width and 12 inches in height and does not have any associated exterior antenna longer than 11½ inches.

(h) “Municipality” means a city or county.

(i) “Video programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. § 522.

(j) “Video service” means video programming services provided by a video services provider through wireline facilities owned, controlled, constructed or operated by the provider of such video service and located at least in part in the public rights-of-way without regard to delivery

technology, including internet protocol technology. ~~This definition~~ “Video service” does not include any video programming provided by:

(1) A commercial mobile service provider defined in 47 U.S.C. § 332(d), unless such programming is determined by the federal communications commission to be cable service;

(2) *a provider of direct-to-home satellite services, as defined in 47 U.S.C. 303(v), that are transmitted from a satellite directly to a customer’s premises without using or accessing any portion of the public right-of-way; or*

(3) *a provider of video programming accessed through a service that enables users to access content, information, email or other services offered over the internet including streaming content.*

(k) “Video service authorization” means the right of a video service provider to offer video programming to any subscribers anywhere in the state of Kansas.

(l) “Video service provider” means a cable operator or a competitive video service provider *that provides a video service.*

(m) “Video service provider fee” means the fee imposed upon video service providers pursuant to K.S.A. 12-2024, and amendments thereto.

Sec. 2. K.S.A. 12-2022 is hereby repealed.

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

Approved April 13, 2023.

CHAPTER 20

SENATE BILL No. 49*

AN ACT concerning wind energy conversion systems; relating to aviation obstruction lighting; requiring new wind energy conversion systems to be constructed with light-mitigating technology systems prior to the commencement of operations; requiring existing wind energy conversion systems to install light-mitigating technology systems upon execution of a long-term power offtake agreement; authorizing any county to issue revenue bonds to finance some or all of the costs of the installation of a light-mitigating technology system; making all such installations subject to the approval of the federal aviation administration.

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

Section 1. (a) On and after July 1, 2023, no new wind energy conversion system shall commence commercial operations in this state unless the developer, owner or operator of the wind energy conversion system applies to the federal aviation administration for installation of a light-mitigating technology system that complies with federal aviation administration regulations 14 C.F.R. § 1.1 et seq. If approved by the federal aviation administration, the developer, owner or operator of such wind energy conversion system shall install the light-mitigating technology system on approved turbines within 24 months after receipt of such approval.

(b) (1) On and after January 1, 2026, any developer, owner or operator of a wind energy conversion system that has commenced commercial operations in the state without a light-mitigating technology system shall apply to the federal aviation administration for installation and operation of a light-mitigating technology system that complies with federal aviation administration regulations 14 C.F.R. § 1.1 et seq. within six months after the execution of a new power offtake agreement related to such wind energy conversion system. If approved by the federal aviation administration, the developer, owner or operator of such wind energy conversion system shall install the light-mitigating technology system on approved turbines within 24 months following such approval.

(2) Any county may issue revenue bonds pursuant to K.S.A. 12-1741b, and amendments thereto, for the purpose of paying all or part of the costs of the purchase, acquisition and equipping of a light-mitigating technology system, subject to the approval of the federal aviation administration, for a wind energy conversion system that has commenced commercial operations in the state without a light-mitigating technology system.

(c) Any vendor that is selected for installation of a light-mitigating technology system on a wind energy conversion system pursuant to the requirements of this section and is approved by the federal aviation administration for such installation shall provide to the Kansas department of transportation aviation division, in the form and manner prescribed by the division,

notice of the progress of the installation of such light-mitigating technology system. If the installation of the light-mitigating technology system is delayed beyond the 24-month installation requirement established pursuant to this section, such vendor shall provide notice to the Kansas department of transportation aviation division not less than once every three months to provide an update on the reasons for the delay and the current status of the installation. The division may establish policies and procedures to establish a uniform schedule for submitting notice pursuant to this subsection.

(d) Any costs associated with the installation, implementation, operation and maintenance of a light-mitigating technology system shall be the responsibility of the developer, owner or operator of the wind energy conversion system.

(e) As used in this section:

(1) “Light-mitigating technology system” means aircraft detection lighting or any other comparable system capable of reducing the impact of facility obstruction lighting while maintaining conspicuity sufficient to assist aircraft in identifying and avoiding collision with a wind energy conversion system.

(2) “Power offtake agreement” means a long-term contract that provides for:

(A) The provision of the whole or any part of the available capacity or the sale or other disposal of the whole or any part of the output of a wind energy conversion system; or

(B) a contract for differences or financial hedge tied to the output from the wind energy conversion system.

(3) “Wind energy conversion system” means an electric generation facility consisting of five or more wind turbines that are 50 feet or taller in height and any accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures.

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

Approved April 13, 2023.

Published in the *Kansas Register* April 20, 2023.

CHAPTER 21

HOUSE BILL No. 2114

AN ACT concerning the joint committee on corrections and juvenile justice oversight; renaming the committee in honor of Representative J. Russell (Russ) Jennings; requiring the committee to monitor the implementation of juvenile justice reform and the work of the juvenile justice oversight committee; amending K.S.A. 46-2801, 65-536 and 74-9101 and repealing the existing sections; also repealing K.S.A. 46-2802.

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

Section 1. K.S.A. 46-2801 is hereby amended to read as follows: 46-2801. (a) There is hereby created the joint committee on corrections and juvenile justice oversight ~~which~~. *On and after July 1, 2023, such committee shall be named the J. Russell (Russ) Jennings joint committee on corrections and juvenile justice oversight. The joint committee shall be within the legislative branch of state government and which shall be composed of no not more than seven members of the senate and seven members of the house of representatives.*

(b) The senate members shall be appointed by the president and the minority leader. The two major political parties shall have proportional representation on such committee. In the event application of the preceding sentence results in a fraction, the party having a fraction exceeding 0.5 shall receive representation as though such fraction were a whole number.

(c) The seven representative members shall be appointed as follows:

(1) Two members shall be members of the majority party who are members of the house committee on appropriations and shall be appointed by the speaker;

(2) two members shall be members of the majority party who are members of the house committee on judiciary and shall be appointed by the speaker; and

(3) three members shall be members of the minority party who are members of the house committee on appropriations or the house committee on judiciary and shall be appointed by the minority leader.

(d) Any vacancy in the membership of the joint committee ~~on corrections and juvenile justice oversight~~ shall be filled by appointment in the manner prescribed by this section for the original appointment.

(e) All members of the joint committee ~~on corrections and juvenile justice oversight~~ shall serve for terms ending on the first day of the regular legislative session in odd-numbered years. The joint committee shall organize annually and elect a chairperson and vice-chairperson in accordance with this subsection. During odd-numbered years, the chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the senate members elected by the members of the joint

committee. During even-numbered years, the chairperson shall be one of the senate members of the joint committee elected by the members of the joint committee and the vice-chairperson shall be one of the representative members of the joint committee elected by the members of the joint committee. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of chairperson or vice-chairperson, a member of the joint committee, who is a member of the same house as the member who vacated the office, shall be elected by the members of the joint committee to fill such vacancy. ~~Within 30 days after the effective date of this act, the joint committee shall organize and elect a chairperson and a vice chairperson in accordance with the provisions of this act.~~

(f) A quorum of the joint committee ~~on corrections and juvenile justice oversight~~ shall be eight. All actions of the joint committee shall be by motion adopted by a majority of those present when there is a quorum.

(g) The joint committee ~~on corrections and juvenile justice oversight~~ may meet at any time and at any place within the state on the call of the chairperson, vice-chairperson and ranking minority member of the house of representatives when the chairperson is a representative or of the senate when the chairperson is a senator.

(h) The provisions of ~~the acts contained in~~ article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee ~~on corrections and juvenile justice oversight~~ to the extent that ~~the same such provisions~~ do not conflict with the specific provisions of this ~~act~~ *section* applicable to the joint committee.

(i) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee ~~on corrections and juvenile justice oversight~~.

(j) The joint committee ~~on corrections and juvenile justice oversight~~ may introduce such legislation as it deems necessary in performing its functions.

(k) In addition to other powers and duties authorized or prescribed by law or by the legislative coordinating council, the joint committee ~~on corrections and juvenile justice oversight~~ shall:

(1) Monitor the inmate population and review and study the programs, activities and plans of the department of corrections regarding the duties of the department of corrections that are prescribed by statute, including the implementation of expansion projects, the operation of correctional, food service and other programs for inmates, community corrections, parole and the condition and operation of the correctional institutions and other facilities under the control and supervision of the department of corrections;

(2) ~~monitor the establishment of the juvenile justice authority and review and study the programs, activities and plans of the juvenile justice authority regarding the duties of the juvenile justice authority that are prescribed by statute~~ *implementation of juvenile justice reform and the work of the juvenile justice oversight committee created in K.S.A. 75-52,161, and amendments thereto*, including the responsibility for the care, custody, control and rehabilitation of juvenile offenders and the condition and operation of the state juvenile correctional facilities ~~under the control and supervision of the juvenile justice authority;~~

(3) review and study the adult correctional programs and activities and facilities of counties, cities and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders;

(4) review and study the juvenile offender programs and activities and facilities of counties, cities, school districts and other local governmental entities, including programs for the reduction and prevention of juvenile crime and delinquency, the programs and activities of private entities operating community juvenile programs and facilities and the condition and operation of local governmental residential or custodial facilities for the care, treatment or training of juvenile offenders; *and*

(5) ~~study the progress and results of the transition of powers, duties and functions from the Kansas department for children and families, office of judicial administration and department of corrections to the juvenile justice authority; and~~

(6) make an annual report to the legislative coordinating council as provided in K.S.A. 46-1207, and amendments thereto, and such special reports to committees of the house of representatives and senate as are deemed appropriate by the joint committee.

Sec. 2. K.S.A. 65-536 is hereby amended to read as follows: 65-536.

(a) A juvenile crisis intervention center is a facility that provides short-term observation, assessment, treatment and case planning, and referral for any juvenile who is experiencing a mental health crisis and is likely to cause harm to self or others. Such centers shall:

(1) Address or ensure access to the broad range of services to meet the needs of a juvenile admitted to the center, including, but not limited to, medical, psychiatric, psychological, social and educational services;

(2) not include construction features designed to physically restrict the movements and activities of juveniles, but shall have a design, structure, interior and exterior environment, and furnishings to promote a safe, comfortable and therapeutic environment for juveniles admitted to the center;

(3) implement written policies and procedures that include the use of a combination of supervision, inspection and accountability to promote safe and orderly operations; and

(4) implement written policies and procedures for staff monitoring of all center entrances and exits.

(b) A juvenile crisis intervention center shall provide treatment to juveniles admitted to such center, as appropriate while admitted.

(c) A juvenile crisis intervention center may be on the same premises as that of another licensed facility. If the juvenile crisis intervention center is on the same premises as that of another licensed facility, the living unit of the juvenile crisis intervention center shall be maintained in a separate, self-contained unit. No juvenile crisis intervention center shall be in a city or county jail or a juvenile detention facility.

(d) (1) A juvenile may be admitted to a juvenile crisis intervention center when:

(A) The head of such center determines such juvenile is in need of treatment and likely to cause harm to self or others;

(B) a qualified mental health professional from a community mental health center has given written authorization for such juvenile to be admitted to a juvenile crisis intervention center; and

(C) no other more appropriate treatment services are available and accessible to the juvenile at the time of admission.

(2) A juvenile may be admitted to a juvenile crisis intervention center for not more than 30 days. A parent with legal custody or legal guardian of a juvenile placed in a juvenile crisis intervention center may remove such juvenile from the center at any time. If the removal may cause the juvenile to become a child in need of care pursuant to K.S.A. 38-2202(d), and amendments thereto, the head of a juvenile crisis intervention center may report such concerns to the department for children and families or law enforcement or may request the county or district attorney to initiate proceedings pursuant to the revised Kansas code for care of children. If the head of a juvenile crisis intervention center determines the most appropriate action is to request the county or district attorney to initiate proceedings pursuant to the revised Kansas code for care of children, the head of such center shall make such request and shall keep such juvenile in the center for an additional 24-hour period to initiate the appropriate proceedings.

(3) When a juvenile is released from a juvenile crisis intervention center, the managed care organization, if the juvenile is a medicaid recipient, and the community mental health center serving the area where the juvenile is being discharged shall be involved with discharge planning. Within seven days prior to the discharge of a juvenile, the head of the juvenile crisis intervention center shall give written notice of the date and time of the discharge to the patient, the managed care organization, if the

juvenile is a medicaid recipient, and the community mental health center serving the area where the juvenile is being discharged, and the patient's parent, custodian or legal guardian.

(e) (1) Upon admission to a juvenile crisis intervention center, and if the juvenile is a medicaid recipient, the managed care organization shall approve services as recommended by the head of the juvenile crisis intervention center. Within 14 days after admission, the head of the juvenile crisis intervention center shall develop a plan of treatment for the juvenile in collaboration with the managed care organization.

(2) Nothing in this subsection shall prohibit the department of health and environment from administering or reimbursing state medicaid services to any juvenile admitted to a juvenile crisis intervention center pursuant to a waiver granted under section 1915(c) of the federal social security act, provided that such services are not administered through a managed care delivery system.

(3) Nothing in this subsection shall prohibit the department of health and environment from reimbursing any state medicaid services that qualify for reimbursement and that are provided to a juvenile admitted to a juvenile crisis intervention center.

(4) Nothing in this subsection shall impair or otherwise affect the validity of any contract in existence on July 1, 2018, between a managed care organization and the department of health and environment to provide state medicaid services.

(5) On or before January 1, 2019, the secretary of health and environment shall submit to the United States centers for medicare and medicaid services any approval request necessary to implement this subsection.

(f) The secretary for children and families, in consultation with the attorney general, shall promulgate rules and regulations to implement the provisions of this section on or before January 1, 2019.

(g) The secretary for children and families shall annually report information on outcomes of juveniles admitted into juvenile crisis intervention centers to the *J. Russell (Russ) Jennings* joint committee on corrections and juvenile justice oversight, the corrections and juvenile justice committee of the house of representatives and the judiciary committee of the senate. Such report shall include:

(1) The number of admissions, releases and the lengths of stay for juveniles admitted to juvenile crisis intervention centers;

(2) services provided to juveniles admitted;

(3) needs of juveniles admitted determined by evidence-based assessment; and

(4) success and recidivism rates, including information on the reduction of involvement of the child welfare system and juvenile justice system with the juvenile.

(h) The secretary of corrections may enter into memorandums of agreement with other cabinet agencies to provide funding, not to exceed \$2,000,000 annually, from the evidence-based programs account of the state general fund or other available appropriations for juvenile crisis intervention services.

(i) For the purposes of this section:

(1) “Head of a juvenile crisis intervention center” means the administrative director of a juvenile crisis intervention center or such person’s designee;

(2) “juvenile” means a person who is less than 18 years of age;

(3) “likely to cause harm to self or others” means that a juvenile, by reason of the juvenile’s mental disorder or mental condition is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage;

(4) “treatment” means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner; and

(5) “qualified mental health professional” means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, a licensed masters level psychologist, a licensed clinical psychotherapist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, a licensed professional counselor, a licensed clinical professional counselor, a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(j) This section shall be *a* part of and supplemental to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. K.S.A. 74-9101 is hereby amended to read as follows: 74-9101.

(a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the cir-

cumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including, but not limited to, the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the prisoner review board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including, but not limited to, the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 2022 Supp. 21-6822, and amendments thereto;

(8) prepare and submit a fiscal impact and correctional resource statement as provided in K.S.A. 74-9106, and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;

(15) produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for: (A) Reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: Intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mechanisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such option's impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1;

(16) at the request of the governor or the *J. Russell (Russ) Jennings*

joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission;

(17) develop information relating to the number of offenders on post-release supervision and subject to electronic monitoring for the duration of the person's natural life;

(18) determine the effect the mandatory sentencing established in K.S.A. 21-4642 and 21-4643, prior to their repeal, or K.S.A. 2022 Supp. 21-6626 and 21-6627, and amendments thereto, would have on the number of offenders civilly committed to a treatment facility as a sexually violent predator as provided pursuant to K.S.A. 59-29a01 et seq., and amendments thereto;

(19) assume the designation and functions of the state statistical analysis center. All criminal justice agencies, as defined in K.S.A. 22-4701(c), and amendments thereto, shall provide any data or information, including juvenile offender information, requested by the commission to facilitate the function of the state statistical analysis center;

(20) subject to the provisions of appropriation acts and the availability of funds therefor, produce official juvenile correctional facility population projections annually on or before November 1, not more than six weeks following the receipt of the data from the ~~juvenile justice authority~~ *secretary of corrections* and develop bed impacts regarding legislation that may affect juvenile correctional facility population;

(21) be authorized to make statewide supervision and placement cutoff decisions based upon the risk levels and needs of the offender. The commission shall periodically review data and make recommended changes;

(22) determine the impact and effectiveness of supervision and sanctions for felony offenders regarding recidivism and prison and community-based supervision populations; and

(23) gather data and information from any state agency to carry out the duties and functions described in this section. Unless otherwise prohibited by law, all state agencies shall provide any data or information requested by the commission to carry out such duties and functions. As used in this paragraph, "state agency" means any state office, officer, department, board, commission, institution, bureau, agency, or authority or any division or unit thereof.

Sec. 4. K.S.A. 46-2801, 46-2802, 65-536 and 74-9101 are hereby repealed.

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

CHAPTER 22

HOUSE BILL No. 2225

AN ACT concerning utilities; relating to electric utilities; including cost recovery of transmission-related costs for transmission facilities constructed as a result of a directive from the regional transmission organization; authorizing cost recovery for transmission facilities constructed as a result of internal or local planning under certain circumstances; requiring the commission to adjust the authorized return on equity for such internal or local transmission projects recovered through a transmission delivery charge; requiring public utilities to evaluate the regional rate competitiveness and impact to economic development in rate proceedings; amending K.S.A. 66-117 and 66-1237 and repealing the existing sections.

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

Section 1. K.S.A. 66-117 is hereby amended to read as follows: 66-117. (a) Unless the state corporation commission otherwise orders, no common carrier or public utility over which the commission has control shall make effective any changed rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of such public utility or common carrier except by filing the same with the commission at least 30 days prior to the proposed effective date. The commission, for good cause, may allow such changed rate, joint rate, toll, charge or classification or schedule of charges, or rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier to become effective on less than 30 days' notice. If the commission allows a change to become effective on less than 30 days' notice, the effective date of the allowed change shall be the date established in the commission order approving such change, or the date of the order if no effective date is otherwise established. Any such proposed change shall be shown by filing with the state corporation commission a schedule showing the changes, and such changes shall be plainly indicated by proper reference marks in amendments or supplements to existing tariffs, schedules or classifications, or in new issues thereof.

(b) Whenever any common carrier or public utility governed by the provisions of this act files with the state corporation commission a schedule showing the changes desired to be made and put in force by such public utility or common carrier, the commission either upon complaint or upon its own motion, may give notice and hold a hearing upon such proposed changes. Pending such hearing, the commission may suspend the operation of such schedule and defer the effective date of such change in rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier by delivering to such public utility or common carrier a statement in writing of its reasons for such suspension.

(c) The commission shall not delay the effective date of the proposed change in rate, joint rate, toll, charge or classification or schedule of charges, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, more than 240 days beyond the date the public utility or common carrier filed its application requesting the proposed change. If the commission does not suspend the proposed schedule within 30 days of the date the same is filed by the public utility or common carrier, such proposed schedule shall be deemed approved by the commission and shall take effect on the proposed effective date. If the commission has not issued a final order on the proposed change in any rate, joint rate, toll, charge or classification or schedule of charges, or any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, within 240 days after the carrier or utility files its application requesting the proposed change, then the schedule shall be deemed approved by the commission and the proposed change shall be effective immediately, except that:

(1) For purposes of the foregoing provisions regarding the period of time within which the commission shall act on an application, any amendment to an application for a proposed change in any rate, which increases the amount sought by the public utility or common carrier or substantially alters the facts used as a basis for such requested change of rate, shall, at the option of the commission, be deemed a new application and the 240-day period shall begin again from the date of the filing of the amendment;;

(2) if hearings are in process before the commission on a proposed change requested by the public utility or common carrier on the last day of such 240-day period, such period shall be extended to the end of such hearings plus 20 days to allow the commission to prepare and issue its final order; and,

(3) nothing in this subsection shall preclude the public utility or common carrier and the commission from agreeing to a waiver or an extension of the 240-day period.

(d) Except as provided in subsection (c), no change shall be made in any rate, toll, charge, classification or schedule of charges or joint rates, or in any rule or regulation or practice pertaining to the service or rates of any such public utility or common carrier, without the consent of the commission. Within 30 days after such changes have been authorized by the state corporation commission or become effective as provided in subsection (c), copies of all tariffs, schedules and classifications, and all rules and regulations, except those determined to be confidential under rules and regulations adopted by the commission, shall be filed in every station, office or depot of every such public utility and every common carrier in this state, for public inspection.

(e) Upon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected ~~(1)~~ to produce energy from a renewable resource other than nuclear for the use of its customers, ~~(2)~~ to cause the conservation of energy used by its customers, or ~~(3)~~ to bring about the more efficient use of energy by its customers, the commission may allow a return on such investment equal to an increment of from ~~1/2%~~ 0.5% to 2% plus an amount equal to the rate of return fixed for the utility's other investment in property found by the commission to be used or required to be used in its services to the public. The commission may also allow such higher rate of return on investments by a public utility in experimental projects, such as load management devices, which it determines after public hearing to be reasonably designed to cause more efficient utilization of energy and in energy conservation programs or measures which it determines after public hearing provides a reduction in energy usage by its customers in a cost-effective manner.

(f) Whenever, after the effective date of this act, an electric public utility, a natural gas public utility or a combination thereof, files tariffs reflecting a surcharge on the utility's bills for utility service designed to collect the annual increase in expense charged on its books and records for ad valorem taxes, such utility shall report annually to the state corporation commission the changes in expense charged for ad valorem taxes. For purposes of this section, such amounts charged to expense on the books and records of the utility may be estimated once the total property tax payment is known. If found necessary by the commission or the utility, the utility shall file tariffs which reflect the change as a revision to the surcharge. Upon a showing that the surcharge is applied to bills in a reasonable manner and is calculated to substantially collect the increase in ad valorem tax expense charged on the books and records of the utility, or reduce any existing surcharge based upon a decrease in ad valorem tax expense incurred on the books and records of the utility, the commission shall approve such tariffs within 30 days of the filing. Any over or under collection of the actual ad valorem tax increase charged to expense on the books of the utility shall be either credited or collected through the surcharge in subsequent periods. The establishment of a surcharge under this section shall not be deemed to be a rate increase for purposes of this act. The net effect of any surcharges established under this section shall be included by the commission in the establishment of base rates in any subsequent rate case filed by the utility.

(g) Except as to the time limits prescribed in subsection (c), proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(h) *In any general rate proceeding of an electric public utility serving more than 20,000 customers conducted pursuant to this section, the electric public utility shall evaluate and include in its application for a rate change an assessment of the following: (1) The regional rate competitiveness of the electric public utility's current and proposed rates; and (2) the impact of the electric public utility's current and proposed rates upon economic development within the state.*

Sec. 2. K.S.A. 66-1237 is hereby amended to read as follows: 66-1237. (a) Any electric utility subject to the regulation of the state corporation commission pursuant to K.S.A. 66-101, and amendments thereto, may seek to recover costs associated with transmission of electric power, in a manner consistent with the determination of transmission-related costs from an order of a regulatory authority having legal jurisdiction, through a separate transmission delivery charge included in customers' bills. The electric utility's initial transmission delivery charge resulting from this section may be determined by the commission either from transmission-related costs approved in the electric utility's most recent retail rate filing or in an order establishing rates in response to a general retail rate application by an electric utility.

(b) (1) If an electric utility elects to recover its transmission-related costs through a transmission delivery charge, such electric utility shall have the right to implement a transmission delivery charge through an application to the commission.

~~(1)~~(2) If an electric utility proposes to establish its initial transmission delivery charge other than in connection with an application to the commission that proposes a general retail rate change the commission shall, effective the same date as the effective date of the initial transmission delivery charge, unbundle the electric utility's retail rates in such a manner that the sum of the revenue to be recovered from the initial transmission delivery charge and the non-transmission-related retail rates will be consistent with the revenue that would be recovered from the retail rates in effect immediately prior to the effective date of the initial transmission delivery charge.

~~(2)~~(3) If an electric utility proposes to establish its initial transmission delivery charge in connection with an application to the commission for a general retail rate change, the commission shall, in its order in such rate proceeding, determine the electric utility's transmission-related costs related to its service to Kansas retail customers and determine an initial transmission delivery charge sufficient to permit the electric utility to recover from its Kansas retail customers such utility's transmission-related costs incurred to provide service to such customers.

(c) *Except as provided in subsection (d), all transmission-related costs incurred by an electric utility and resulting from any order of a regulato-*

ry authority having legal jurisdiction over transmission matters, including orders setting rates on a subject-to-refund basis, shall be conclusively presumed prudent for purposes of the transmission delivery charge and an electric utility may change its transmission delivery charge whenever there is a change in transmission-related costs resulting from such an order. The commission may also order such a change if the utility fails to do so. An electric utility shall submit a report to the commission at least 30 business days before changing the utility's transmission delivery charge. If the commission subsequently determines that all or part of such charge did not result from an order described by this subsection, the commission may require changes in the transmission delivery charge and impose appropriate remedies, including refunds.

(d) (1) A for-profit, investor-owned electric utility serving more than 20,000 customers in Kansas that elects to recover such utility's transmission-related costs through a transmission delivery charge pursuant to this section may include, as a component of such charge, the following:

(A) All transmission-related costs associated with transmission facilities constructed as a result of a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency; and

(B) all fees and costs imposed on the electric utility in connection with the operation of wholesale power markets by a regional transmission organization, independent system operator or other entity that is regulated by the federal energy regulatory commission, other federal agency or any successor federal agency.

(2) A for-profit, investor-owned electric utility serving more than 20,000 customers in Kansas may recover, as a component of a transmission delivery charge, transmission-related costs associated with transmission facilities constructed as a result of such utility's internal or local planning processes absent a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency, subject to such utility's compliance with subsections (e) and (f).

(e) To recover the costs described in subsection (d)(2) as a component of a transmission delivery charge and to facilitate commissioner and commission-authorized intervenor review, a utility shall make a compliance filing with the commission prior to the time period provided pursuant to subsection (f) for the commission to adjust the return on equity relating to such costs. A compliance filing shall include all the compliance filing details required by this subsection. Such utility shall continue to make annual compliance filings to the commission. Each compliance filing shall provide the following:

(1) *For each non-blanket work order transmission project over \$15,000,000, or a different amount deemed necessary by the commission staff in consultation with the filing utility, an itemization of projected transmission spending for the succeeding calendar year and the second succeeding calendar year. The commission may expect a utility to provide more extensive details for transmission projects in the succeeding calendar year than for the second succeeding calendar year, but the utility shall provide as many details as reasonably possible for transmission projects in the second succeeding calendar year;*

(2) *for each transmission project:*

(A) *A project identifier or name;*

(B) *the anticipated in-service date;*

(C) *the projected cost;*

(D) *the specific location within the utility's system;*

(E) *whether the project is classified as a new build, rebuild, upgrade or any other appropriate classification;*

(F) *a description providing the purpose for the project and the anticipated reliability benefits;*

(G) *a description of the original vintage of the replaced facilities if the project is classified as a rebuild or upgrade; and*

(H) *the load additions or economic development benefits accommodated by the project, if any; and*

(3) *a proposed date and time for:*

(A) *Representatives of the public utility to conduct a technical conference for the purpose of discussing the details of the compliance filing with commission staff, the citizens utility ratepayer board and other commission-authorized intervenors. Such technical conference shall be held not later than 90 days after the utility filed the compliance filing; and*

(B) *the commission to hold a public workshop in which representatives of the public utility shall present the details associated with the transmission projects that are anticipated in the succeeding calendar year. The public workshop shall allow for questions and comments from the commission, commission staff and other commission-authorized intervenors. The public workshop shall be held not later than 120 days after the utility filed the compliance filing.*

(f) *Beginning January 1, 2024, and prior to April 1, 2024, for any utility electing to recover the costs described in subsection (d)(2), the commission shall adjust the return on equity used to determine the revenue requirement of such costs from the federal energy regulatory commission's jurisdictional return on equity to the state corporation commission's authorized return on equity last used to set the utility's base rates in effect at the time of filing the transmission delivery charge update. If a return on equity was not explicitly established during the utility's last general rate case, the commission*

shall determine an appropriate return on equity from the record of the last general rate case to establish the revenue requirement for such costs. The use of the state corporation commission's authorized return on equity shall not impact any project that was constructed as a result of a notification to construct or similar directive from a regional transmission organization or independent system operator that is regulated by the federal energy regulatory commission, or any successor agency. In any transmission delivery charge update filing, a utility electing to recover the costs described in subsection (d)(2) shall utilize the state corporation commission's authorized return on equity that was used to set the utility's base rates in effect at the time of the update filing or that was stipulated and approved by the commission for use in the transmission delivery charge if a return on equity was not explicitly set during the last general rate case, to determine the utility's transmission delivery charge update.

Sec. 3. K.S.A. 66-117 and 66-1237 are hereby repealed.

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

Approved April 13, 2023.

CHAPTER 23

House Substitute for SENATE BILL No. 208

AN ACT concerning campaign finance; relating to the governmental ethics commission; modifying the investigatory and enforcement powers thereof and the schedule of registration fees for political committees; expanding the list of allowable expenditures from contributions; amending K.S.A. 25-4143, 25-4145, 25-4153a, 25-4157a, 25-4158, 25-4161, 25-4163, 25-4165, 25-4181 and 25-4182 and repealing the existing sections.

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

New Section 1. (a) The provisions of the Kansas administrative procedure act, the Kansas code of civil procedure and the Kansas judicial review act shall apply to actions by the governmental ethics commission or commission staff, including, but not limited to, applications for judicial relief in district court. All actions filed by the commission in district court pursuant to this act shall constitute a claim for purposes of the Kansas public speech protection act.

(b) Any action before the commission shall be brought within five years of the act giving rise to the cause of action or complaint.

(c) No action by the commission, including, but not limited to, the issuance of any consent order, order dismissing a complaint or any other preliminary or final order by the commission, shall require a respondent to waive any civil or legal rights to judicial recourse in any manner.

(d) The commission shall provide by rules and regulations the standards by which any member of the commission, the executive director or any other person employed or engaged by the commission shall recuse themselves from any matter before the commission by reason of a conflict of interest, appearance of impropriety or other basis affecting the ability of the commission to neutrally and fairly enforce the campaign finance act.

Sec. 2. K.S.A. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

- (a) “Agent” means an individual who is:
- (1) A candidate;
 - (2) a chairperson of a candidate, political or party committee;
 - (3) a treasurer; or
 - (4) any director, officer, employee, paid consultant or other person who is authorized to act on behalf of persons listed in this subsection.
- (b) “Candidate” means an individual who:
- (1) Appoints a treasurer or a candidate committee;
 - (2) makes a public announcement of intention to seek nomination or election to state or local office;
 - (3) makes any expenditure or accepts any contribution for such person’s nomination or election to any state or local office; or

(4) files a declaration or petition to become a candidate for state or local office.

~~(b)~~(c) “Candidate committee” means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

~~(e)~~(d) “Clearly identified candidate” means a candidate who has been identified by the:

- (1) Use of the name of the candidate;
- (2) use of a photograph or drawing of the candidate; or
- (3) unambiguous reference to the candidate whether or not the name, photograph or drawing of such candidate is used.

~~(d)~~(e) “Commission” means the governmental ethics commission.

~~(e)~~(f) (1) “Contribution” means:

(A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value given to a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office-;

(B) any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate’s campaign or to or for any such committee;

(E) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events; *or*

(F) a mailing of materials designed to expressly advocate the nomination, election or defeat of a clearly identified candidate, which is made and paid for by a party committee with the consent of such candidate.

(2) “Contribution” does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate’s spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate’s spouse while campaigning; *or*

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event.

~~(f)~~(g) “Election” means:

- (1) A primary or general election for state or local office; and
- (2) a convention or caucus of a political party held to nominate a candidate for state or local office.

~~(g)~~(h) (1) “Expenditure” means:

(A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made by a candidate, candidate committee, party committee or political committee for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office;

(B) any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made to expressly advocate the nomination, election or defeat of a clearly identified candidate for a state or local office;

(C) any contract to make an expenditure;

(D) a transfer of funds between any two or more candidate committees, party committees or political committees; or

(E) payment of a candidate’s filing fees.

(2) “Expenditure” does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149, and amendments thereto;

(C) payment by a candidate or candidate’s spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate’s spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or

(E) any communication by an incumbent elected state or local officer with one or more individuals unless the primary purpose thereof is to expressly advocate the nomination, election or defeat of a clearly identified candidate.

~~(h)~~(i) “Expressly advocate the nomination, election or defeat of a clearly identified candidate” means any communication ~~which~~ *that* uses phrases including, but not limited to:

- (1) “Vote for the secretary of state”;
- (2) “re-elect your senator”;
- (3) “support the democratic nominee”;
- (4) “cast your ballot for the republican challenger for governor”;
- (5) “Smith for senate”;
- (6) “Bob Jones in ‘98”;

- (7) “vote against Old Hickory”;
- (8) “defeat” accompanied by a picture of one or more candidates; or
- (9) “Smith’s the one.”
- ~~(i)~~(j) “Party committee” means:
 - (1) The state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
 - (2) the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
 - (3) the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated;
 - (4) ~~not more than one~~the political committee established by the state committee of any such political party and designated as a recognized political committee for the senate;
 - (5) ~~not more than one~~the political committee established by the state committee of any such political party and designated as a recognized political committee for the house of representatives; or
 - (6) ~~not more than one~~the political committee per congressional district established by the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto, and designated as a congressional district party committee.
- ~~(j)~~(k) “Person” means any individual, committee, corporation, partnership, trust, organization or association.
- ~~(k)~~(l) (1) “Political committee” means any combination of two or more individuals or any person other than an individual, a major purpose of which is to expressly advocate the nomination, election or defeat of a clearly identified candidate for state or local office or make contributions to or expenditures for the nomination, election or defeat of a clearly identified candidate for state or local office.
- (2) “Political committee” shall not include a candidate committee or a party committee.
- ~~(l)~~(m) “Receipt” means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer’s official capacity.
- ~~(m)~~(n) “State office” means any state office as defined in K.S.A. 25-2505, and amendments thereto.
- ~~(n)~~(o) “Testimonial event” means an event held for the benefit of an individual who is a candidate to raise contributions for such candidate’s campaign. “Testimonial events ~~include~~” *includes*, but are not limited to, dinners, luncheons, rallies, barbecues and picnics.
- ~~(o)~~(p) “Treasurer” means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the campaign finance act or a treasurer of a combination of individuals

or a person other than an individual which is subject to ~~paragraph (2) of subsection (a) of K.S.A. 25-4172(a)(2), and amendments thereto.~~

~~(p)~~(q) “Local office” means a member of the governing body of a city of the first class, any elected office of a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities.

Sec. 3. K.S.A. 25-4145 is hereby amended to read as follows: 25-4145. (a) Each party committee and each political committee which anticipates receiving contributions or making expenditures shall appoint a chairperson and a treasurer. The chairperson of each party committee and each political committee which anticipates receiving contributions or making expenditures for a candidate for state office shall make a statement of organization and file it with the secretary of state not later than 10 days after establishment of such committee. The chairperson of each political committee which anticipates receiving contributions or making expenditures for any candidate for local office, shall make a statement of organization and file it with the county election officer not later than 10 days after establishment of such committee.

(b) Every statement of organization shall include:

(1) The name and address of the committee. The name of the committee shall reflect the full name of the organization with which the committee is connected or affiliated or sufficiently describe such affiliation. If the political committee is not connected or affiliated with any one organization, the name shall reflect the trade, profession or primary interest of the committee as reflected by the statement of purpose of such organization;

(2) the names, addresses and email addresses, which such email addresses shall be optional, of the chairperson and treasurer of the committee;

(3) the names and addresses of affiliated or connected organizations; and

(4) in the case of a political committee, the full name of the organization with which the committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(c) Any change in information previously reported in a statement of organization shall be reported on a supplemental statement of organization and filed not later than 10 days following the change.

(d) (1) Each political committee which anticipates receiving contributions shall register annually with the commission on or before July 1 of each year. Each political committee registration shall be in the form and contain such information as may be required by the commission.

(2) *Each registration by a political committee anticipating the receipt of more than \$15,000 in any calendar year shall be accompanied by an annual registration fee of \$750.*

(3) Each registration by a political committee anticipating the receipt of ~~\$2,501~~ or more than \$7,500 but less than \$15,001 in any calendar year shall be accompanied by an annual registration fee of ~~\$300~~ \$500.

~~(3)(4)~~ Each registration by a political committee anticipating the receipt of more than ~~\$500~~ \$2,500 but less than ~~\$2,501~~ \$7,501 in any calendar year shall be accompanied by an annual registration fee of ~~\$50~~ \$250.

~~(4)(5)~~ Each registration by a political committee anticipating the receipt of ~~\$500~~ \$2,500 or less in any calendar year shall be accompanied by an annual registration fee of ~~\$25~~ \$50.

~~(5)(6)~~ Any political committee ~~which that~~ is currently registered under subsection ~~(d)(3)~~ (d)(4) or ~~(d)(4)~~ (d)(5) and ~~which that~~ receives contributions in excess of ~~\$2,500~~ *the registered amount* for a calendar year, shall file, within three days of the date when contributions exceed such amount, an amended registration form ~~which that~~ shall be accompanied by an additional fee for such year equal to the difference between ~~\$300~~ *the fee owed* and the amount of the fee that accompanied the current registration.

~~(6)~~ Any political committee ~~which is currently registered under subsection (d)(4) and which receives contributions in excess of \$500 but which are less than \$2,501,~~ shall file, within three days of the date when contributions exceed \$500, an amended registration form which shall be accompanied by an additional fee of \$25 for such year.

(e) All such fees received by or for the commission shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the governmental ethics commission fee fund.

Sec. 4. K.S.A. 25-4153a is hereby amended to read as follows: 25-4153a. (a) No registered lobbyist, political committee or person, other than an individual, shall make a contribution after January 1 of each year and prior to adjournment sine die of the regular session of the legislature or at any other time in which the legislature is in session to a:

- (1) Legislator;
- (2) candidate for membership in the legislature;
- (3) state officer elected on a statewide basis;
- (4) candidate for state officer elected on a statewide basis;
- (5) candidate committee of persons described in paragraphs (1) through (4); or
- (6) political committee established by a state committee of any political party and designated as a recognized political committee for the senate or house of representatives.

(b) No legislator, officer, candidate or committee described in subsection (a)(1) through (6) shall accept or knowingly solicit any contribution as defined by K.S.A. 25-4143, and amendments thereto, from any registered lobbyist, political committee or person, other than an individual, during such period of time described in subsection (a), except that a general public solicitation which does not solicit a specific individual and is distributed via social media shall be permissible. *No solicitation shall be considered a violation of this act if such solicitation is accompanied with a disclaimer that it is not intended for lobbyists, political committees or persons other than individuals.*

(c) For the purposes of this act, “social media” means an electronic medium which allows users to create and view user-generated content, including, but not limited to, uploaded or downloaded videos or photographs, blogs, audio files, instant messages or email.

Sec. 5. K.S.A. 25-4157a is hereby amended to read as follows: 25-4157a. (a) (1) No moneys received by any candidate or candidate committee of any candidate as a contribution under this act shall be used or be made available for the personal use of the candidate and no such moneys shall be used by such candidate or the candidate committee of such candidate except for:

- ~~(1)~~(A) Legitimate campaign purposes;
- ~~(2)~~(B) expenses of holding political office;
- ~~(3)~~(C) contributions to the party committees of the political party of which such candidate is a member;
- ~~(4)~~(D) any membership dues related to the candidate’s campaign paid to a community service or civic organization in the name of the candidate;
- ~~(5)~~(E) any donations paid to any organization which is recognized as a 501(c)(3) tax exempt organization or any religious organization, community service or civic organization in the name of the candidate or candidate committee of any candidate but only if the candidate receives no goods or services unrelated to the candidate’s campaign as a result of the payment of such donations;
- ~~(6)~~(F) expenses incurred in the purchase of tickets to meals and special events sponsored by any organization the major purpose of which is to promote or facilitate the social, business, commercial or economic well being of the local community; ~~or~~
- ~~(7)~~(G) expenses incurred in the purchase and mailing of greeting cards to voters and constituents;
- (H) *expenses, compensation or gifts provided to any volunteer, staff member or contractor of the candidate’s campaign or provided to any volunteer or staff of the candidate’s political office if the total amount of such expenses, compensation or gifts provided to such persons from all sources does not exceed the total fair market value of services provided to the candidate’s campaign or political office;*

(I) *payment of any civil penalty or fine imposed by the commission pursuant to this act related to the candidate's campaign and that is incurred by the candidate, candidate committee, treasurer or other agent of the candidate; or*

(J) *payment of legal fees related to any investigation or action under this act.*

(2) For the purpose of this subsection, expenditures for "personal use" ~~shall include~~ *includes* expenditures to defray normal living expenses for the candidate or the candidate's family and expenditures for the personal benefit of the candidate having no direct connection with or effect upon the campaign of the candidate or the holding of public office.

(b) No moneys received by any candidate or candidate committee of any candidate as a contribution shall be used to pay interest or any other finance charges upon moneys loaned to the campaign by such candidate or the spouse of such candidate.

(c) No candidate or candidate committee shall accept from any other candidate or candidate committee for any candidate for local, state or national office, any moneys received by such candidate or candidate committee as a campaign contribution. The provisions of this subsection shall not be construed to prohibit a candidate or candidate committee from accepting moneys from another candidate or candidate committee if such moneys constitute a reimbursement for one candidate's proportional share of the cost of any campaign activity participated in by both candidates involved. Such reimbursement shall not exceed an amount equal to the proportional share of the cost directly benefiting and attributable to the personal campaign of the candidate making such reimbursement.

(d) At the time of the termination of any campaign and prior to the filing of a termination report in accordance with K.S.A. 25-4157, and amendments thereto, all residual funds otherwise not obligated for the payment of expenses incurred in such campaign or the holding of office shall be contributed to a charitable organization, as defined by the laws of the state, contributed to a party committee or returned as a refund in whole or in part to any contributor or contributors from whom received or paid into the general fund of the state.

Sec. 6. K.S.A. 25-4158 is hereby amended to read as follows: 25-4158.

(a) The secretary of state shall:

(1) Furnish forms prescribed and provided by the commission for making reports and statements required to be filed in the office of the secretary of state by the campaign finance act; and

(2) make such reports and statements available for public inspection and copying during regular office hours.

(b) The county election officer shall:

(1) Furnish forms prescribed and provided by the commission for making reports and statements required to be filed in the office of the county election officer by the campaign finance act; and

(2) make such reports and statements available for public inspection and copying during regular office hours.

(c) The commission may investigate, or cause to be investigated, any matter required to be reported upon by any person under the provisions of the campaign finance act, or any matter to which the campaign finance act applies irrespective of whether a complaint has been filed in relation thereto.

(d) (1) After a preliminary investigation of any matter reported to the commission pursuant to subsection (c), and upon specific written findings of fact and conclusions of law by the commission that there is a reasonable suspicion that a violation of the campaign finance act has occurred, the commission or any officer designated by the commission may *apply to the district court of Shawnee county for an order to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commission deems relevant or material to the investigation. All applications for a court order shall be made under seal of the court.* The commission shall reimburse the reasonable costs of production of documents subject to subpoena. All subpoenas and subpoenas duces tecum issued under this section shall be authorized by the affirmative vote of not less than $\frac{3}{4}$ $\frac{2}{3}$ of the members of the commission. ~~Any vote authorizing the issuance of a subpoena or subpoena duces tecum shall be taken at a meeting where the commissioners are in physical presence.~~ Subpoenas duces tecum shall be limited to items reasonably relevant to such alleged violations. ~~Upon the request of any person subpoenaed to appear and give testimony or to produce books, papers or documents, the commission shall provide a copy of the written findings of facts and conclusions of laws relating to the alleged violation committed by such person~~ *No subpoena or other process issued by the commission pursuant to this section shall be served upon any person unless an application has been filed in the district court of Shawnee county pursuant to this section.*

(2) ~~In case of contumacy by, or refusal to obey a subpoena issued to any person, the district court of Shawnee county, upon application by the commission, or any officer designated by the commission, may~~ *Upon application by the commission or any officer designated by the commission for a court order pursuant to paragraph (1), the district court of Shawnee county, after review of the sufficiency of the written findings of fact and conclusions of law, the record before the commission and the reasonableness and scope of the subpoena, shall issue to that person an order requir-*

ing the person to appear before the commission or any officer designated by the commission, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court. *Upon the filing of an application for a court order pursuant to paragraph (1), the commission shall provide a copy of the written findings of fact and conclusions of law relating to the alleged violation and persons under investigation along with a copy of the issued subpoena and notices required by paragraph (5) to the recipient of the subpoena.*

(3) *The commission shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. Any person subject to a subpoena shall be informed that such person may apply to the district court for relief on the basis that responding to the subpoena will cause an undue burden or expense. The district court on review of any such application for relief, may impose an appropriate sanction on the commission including an order requiring the commission to reimburse the person for lost earnings and attorney fees.*

(4) *Any person subpoenaed to testify or produce documents under this section shall be informed that the person has a right to be advised by counsel and that the person may not be required to make any self-incriminating statements. Upon a request by such person for counsel, no further examination of the witness shall take place until counsel is present. In the event that counsel of the witness' choice is not available, the person shall be required to obtain other counsel within three days in order that the examination may proceed. If such person is indigent and unable to obtain the services of counsel, the judge shall appoint counsel to assist the person who shall be compensated as counsel appointed for indigent defendants in the district court. Counsel for any witness shall be present while the witness is testifying and may interpose objections on behalf of the witness. Counsel shall not be permitted to examine or cross-examine the client or any other witness during the examination.*

(5) *Every subpoena issued by the commission pursuant to paragraph (1) shall be accompanied by a notice containing the information required to be provided under paragraphs (3) and (4) and the following statement: "This subpoena is not enforceable unless a district court of competent jurisdiction issues an order to enforce the subpoena. The recipient of this subpoena has rights under law including those listed in K.S.A. 25-4158(d)(3), and amendments thereto, and other laws to seek relief from complying with this subpoena, as well as a right to be represented by counsel in this matter pursuant to K.S.A. 25-4158(d)(4), and amendments thereto."*

Sec. 7. K.S.A. 25-4161 is hereby amended to read as follows: 25-4161.
(a) If a complaint is filed and the commission determines that such ver-

ified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any provision of the campaign finance act, it shall dismiss the complaint and notify the complainant and respondent thereof.

(b) Whenever a complaint is filed with the commission alleging a violation of a provision of the campaign finance act, such filing and the allegations therein shall be confidential and shall not be disclosed except as provided in the campaign finance act.

(c) If a complaint is filed and the commission determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of the campaign finance act, the commission shall promptly investigate the alleged violation.

(d) The commission shall notify the attorney general of any apparent violation of criminal law or other laws not administered by the commission, which is discovered during the course of any such investigation.

(e) If after the investigation, the commission finds that probable cause does not exist for believing the allegations of the complaint, the commission shall dismiss the complaint. If after such investigation, the commission finds *by an affirmative vote of not less than $\frac{2}{3}$ of the members of the commission* that probable cause exists for believing the allegations of the complaint, such complaint shall no longer be confidential and may be disclosed. Upon making any such finding, ~~the commission shall fix a time for a hearing of the matter, which shall be not more than 30 days after such finding~~ *a hearing shall be ordered pursuant to this act.* In either event the commission shall notify the complainant and respondent of its determination.

(f) The remedies and protections provided by K.S.A. 75-2973, and amendments thereto, shall be available to any state employee against whom disciplinary action has been taken for filing a complaint pursuant to this act.

(g) *Any attorney or staff member representing the complainant before the commission in any matter shall not engage in ex parte communications with or otherwise advise, represent or assist the commission regarding the same or related matter before the commission. The commission shall obtain separate independent legal counsel when needed to comply with this section.*

(h) (1) *All hearings conducted under this act shall be in accordance with the provisions of the Kansas administrative procedure act and the Kansas code of civil procedure. Upon the request of the respondent, any hearing held under this act may be removed for hearing before a presiding officer from the office of administrative hearings. The commission shall review an initial order resulting from a hearing under this section.*

(2) *The commission is hereby authorized to enter into a contract with the office of administrative hearings and to provide for reimbursement for actual and necessary expenses and compensation for such person serving as a presiding officer.*

(i) *The duties of confidentiality under this section shall apply only to members of the commission, the executive director or any person employed or engaged by the commission.*

Sec. 8. K.S.A. 25-4163 is hereby amended to read as follows: 25-4163. (a) After a verified complaint alleging violation of a provision of the campaign finance act has been filed with the commission, the respondent shall be entitled to examine and make copies of all evidence in the possession of the commission relating to the complaint, including the transcript of the hearing, if any. If a hearing is to be held pursuant to K.S.A. 25-4161, and amendments thereto, then a subcommittee of the commission or the presiding officer, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party. *The commission shall reimburse the reasonable costs of production of documents subject to subpoena.* Any hearing held under K.S.A. 25-4161, and amendments thereto, may be conducted and held by a subcommittee of not less than five members of the commission, of whom not more than a majority shall be of the same political party. *Upon a request by a respondent that the hearing be held before a presiding officer from the office of administrative hearings, all pre-hearing procedures shall be conducted by such presiding officer. The hearing shall be conducted in the manner prescribed by the Kansas administrative procedure act.* Final determination of all complaints shall be made by the commission as a whole. ~~The chairperson of the commission or other member presiding over the commission or the presiding member of any subcommittee of the commission shall have the power to: (1) Administer oaths and affirmations; and (2) compel, by subpoena, the attendance of witnesses and the production of pertinent books, papers and documents. Witnesses shall be entitled to receive fees and mileage as provided by law for witnesses in civil actions, which shall be paid out of appropriations to the commission. Depositions may be taken and used in the same manner as in civil actions. Any person subpoenaed to appear and give testimony or to produce books, papers or documents, who fails or refuses to appear or to produce such books, papers or documents, or any person, having been sworn to testify, who refuses to answer any proper question, may be cited for contempt of the district court of Shawnee county, Kansas. The commission shall report to such court the facts relating to any such contempt. Thereupon proceedings before such court shall be had as in cases of other civil contempt. The commission shall not conduct another hearing on the matter but shall make final determination based on the record of the hearing before the presiding officer or subcommittee of the commission.~~

- (b) At every hearing held ~~by the commission~~ *under this act*:
- (1) Oral evidence shall be taken only on oath or affirmation.
 - (2) Each party shall have the right to be represented by legal counsel, to call and examine witnesses, to introduce evidence and to cross-examine opposing witnesses.
 - (3) *The provisions of K.S.A. 25-4161(g), and amendments thereto, shall apply to legal counsel representing a complainant employed or engaged by the commission.*
- (c) All hearings shall be open to the public.

Sec. 9. K.S.A. 25-4165 is hereby amended to read as follows: 25-4165. (a) The commission shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the commission, and all records and transcripts of any investigations, inquiries or hearings of the commission under the campaign finance act shall be confidential and shall not be open to inspection by any individual other than a member of the commission, an employee of the commission, or a state officer or employee designated to assist the commission, except as otherwise specifically provided in the campaign finance act. The commission may, by adoption of a resolution, authorize the release to the attorney general or to the county or district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the attorney general or any county or district attorney. All matters presented at a public hearing of the commission and all reports of the commission stating a final finding of fact pursuant to K.S.A. 25-4164, *and amendments thereto*, shall be public records and open to public inspection.

(b) *The duties under this section shall apply only to members of the commission, the executive director or any person employed or engaged by the commission.*

Sec. 10. K.S.A. 25-4181 is hereby amended to read as follows: 25-4181. (a) The commission, in addition to any other penalty prescribed under the campaign finance act, may assess a civil fine, after proper notice and an opportunity to be heard, against any person for a violation of the campaign finance act in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. *Except as otherwise provided, the fine imposed by the commission in any one matter shall not exceed an amount that is triple the applicable fine for a single violation in such matter. In the event the respondent derived pecuniary gain from the specific violations, then, in lieu of the above fine amounts, the fine imposed may be fixed at an amount greater than that provided in this section, but in no event shall such amount exceed double the pecuniary gain derived from the violation*

by the respondent. Nothing in this section shall prevent the imposition of a separate fine by a court in a criminal proceeding. Whenever any civil fine or penalty is proposed to be assessed against the treasurer of any candidate who is not also the candidate, such notice shall be given to both the treasurer and the candidate prior to the assessment of such fine or penalty. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the ~~governmental ethics commission fee~~ *state general fund.*

(b) No individual who has failed to pay any civil penalty or civil fine assessed, or failed to file any report required to be filed under the campaign finance act, unless such penalty or fine has been waived or is under appeal, shall be eligible to become a candidate for state office or local office until such penalty or fine has been paid or such report has been filed or both such penalty or fine has been paid and such report filed.

(c) *The commission shall not order community service or any other specific performance in lieu of a civil fine as part of a consent decree or final order. Nothing in this section shall prohibit the commission from requiring training regarding or compliance with any provision of this act as part of a consent decree or final order.*

(d) *The commission shall not enter into any agreement with any person that legally binds the commission from enforcing any law against that person in exchange for the person's cooperation with or assistance of the commission in any matter unless such person has received immunity from criminal prosecution in the same matter from a county or district attorney or the attorney general pursuant to K.S.A. 22-3415, and amendments thereto.*

Sec. 11. K.S.A. 25-4182 is hereby amended to read as follows: 25-4182. (a) If the commission determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of the campaign finance act or any rule and regulation or order hereunder, the commission by order may require that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commission will carry out the purposes of such act.

(b) If the commission makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a), the commission may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the commission shall

promptly notify the person subject to the order that it has been entered, of the reasons therefor and that upon written request the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. *Upon the request of the respondent, any hearing held under this act may be removed for hearing before a presiding officer from the office of administrative hearings as provided in K.S.A. 25-4161, and amendments thereto.* If no hearing is requested and none is ordered by the commission, the order will remain in effect until it is modified or vacated by the commission. If a hearing is requested or ordered, the commission, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order. Any such order shall be enforceable in any court of competent jurisdiction.

Sec. 12. K.S.A. 25-4143, 25-4145, 25-4153a, 25-4157a, 25-4158, 25-4161, 25-4163, 25-4165, 25-4181 and 25-4182 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 14, 2023.

Published in the *Kansas Register* April 20, 2023.

CHAPTER 24

HOUSE BILL No. 2087

AN ACT concerning elections; relating to selection of presidential electors; directing political parties to have procedures for the selection of presidential electors; amending K.S.A. 25-301, 25-801, 25-802, 25-804 and 25-1435 and repealing the existing sections; also repealing K.S.A. 25-803.

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

Section 1. K.S.A. 25-301 is hereby amended to read as follows: 25-301. All nominations made by political parties shall be known and designated as “party nominations,” and the certificates by which such nominations are certified shall be known and designated as “party certificates of nomination.” Party nominations of candidates for public office can be made only by a delegate or mass convention, primary election or caucus of qualified voters belonging to one political party having a national or state organization. ~~Party nominations for presidential electors can be made only by a delegate or mass convention or caucus of qualified electors belonging to a political party having a national or state organization~~ *Each political party that is a recognized political party in accordance with K.S.A. 25-302a, and amendments thereto, shall adopt procedures to select presidential electors and select presidential electors in accordance with such procedures.* Party nominations for governor and lieutenant governor can be made only by a delegate or mass convention of qualified electors belonging to a political party having a national or state organization and any such political party must be one that is not permitted to nominate its candidates by primary election, and such nominations shall be made with the candidates being selected so that each convention vote shall be made for a candidate for governor and a candidate for lieutenant governor running together. Party nominations so made shall, subject to the provisions of this act, be placed upon the official general ballot.

Sec. 2. K.S.A. 25-801 is hereby amended to read as follows: 25-801. The secretary of state shall prepare a list of the names of the electors of president and vice-president of the United States, elected at any election, procure thereto the signature of the governor, affix the seal of the state to the same, and deliver such certificate, thus signed, ~~to one of said electors~~ *each elector* on or before the first Wednesday in December, next after such election.

Sec. 3. K.S.A. 25-802 is hereby amended to read as follows: 25-802. The electors of president and vice-president of the United States shall convene at the capital of the state on the first ~~Monday~~ *Tuesday* after the second Wednesday in December after their election, at the hour of twelve o'clock at noon of that day, ~~and~~. If there shall be any vacancy in the office of electors, occasioned by death, refusal to act, neglect to attend, or other cause, the electors present shall immediately proceed to fill, by ballot and

by a plurality of votes, such vacancy in the electoral college; ~~and~~. When the electors shall appear, or the vacancies shall have been filled as above provided, ~~they~~ *the electors* shall proceed to perform the duties required of such electors by the constitution and laws of the United States.

Sec. 4. K.S.A. 25-804 is hereby amended to read as follows: 25-804. ~~Presidential electors for presidential candidates shall be selected by the state committee of the political party of the candidates, if there is such a committee~~ (a) *Each political party that is a recognized political party in accordance with K.S.A. 25-302a, and amendments thereto, shall adopt procedures to select presidential electors and select presidential electors in accordance with such procedures.*

(b) (1) ~~The names of the presidential electors so selected for a presidential candidate of a political party with a state organization shall be certified to the secretary of state by the chairperson of the committee state political party.~~

(2) *The names of presidential electors for presidential candidates of a political party that does not have a state organization shall be certified to the secretary of state by the chairperson of the national political party.*

(3) ~~The names of presidential electors for independent presidential candidates shall be selected and certified to the secretary of state by such candidates the candidate. Presidential electors for presidential candidates of a political party which has no state committee may be selected and certified to the secretary of state by state party convention or by the national committee of such party.~~

(c) *All names of presidential electors shall be certified to the secretary of state on or before September 1 of the year in which there is a presidential election.*

Sec. 5. K.S.A. 25-1435 is hereby amended to read as follows: 25-1435. Any registered voter may contest the election of any person for whom such voter had the right to vote, when such person is issued a certificate of election to any state, county, township, city or school office, except that the foregoing shall not apply to the election of persons to the United States congress. Any registered voter may contest the determination of the result of any question submitted election at which such voter had the right to vote. *Any contest to the election of presidential electors shall be made in accordance with the provisions of 3 U.S.C. § 5.*

Sec. 6. K.S.A. 25-301, 25-801, 25-802, 25-803, 25-804 and 25-1435 are hereby repealed.

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

CHAPTER 25

HOUSE BILL No. 2395
(Amended by Chapter 91)

AN ACT concerning the open records act; relating to public records; continuing in existence certain exceptions to the disclosure thereof; amending K.S.A. 9-512, 40-4308, 40-4350, 45-229, 65-177, 65-28b08, 74-5611a, 75-7240 and 75-7242 and repealing the existing sections.

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

Section 1. K.S.A. 9-512 is hereby amended to read as follows: 9-512.

(a) The commissioner, after notice and an opportunity for hearing, may issue an order to address any violation of this act or rules and regulations adopted pursuant thereto:

(1) Assessing a fine against any person who violates this act, or rules and regulations adopted *pursuant* thereto, in an amount not to exceed \$5,000 per violation;

(2) assessing the agency's operating costs and expenses for investigating and enforcing this act;

(3) requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation;

(4) barring the person from future application for licensure pursuant to the act; and

(5) requiring such affirmative action as in the judgment of the commissioner ~~which~~ *that* will carry out the purposes of this act.

(b) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act, rules and regulations adopted *pursuant* thereto; or an order issued pursuant to this act.

(c) The commissioner may enter into an informal agreement at any time with a person to resolve a matter arising under this act, rules and regulations adopted pursuant thereto; or an order issued pursuant to this act. The adoption of an informal agreement authorized by this subsection shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement authorized by this subsection shall not be considered an order or other agency action; and shall be considered confidential examination material pursuant to K.S.A. 9-513c, and amendments thereto. All such examination material shall also be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. ~~The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

(d) Any person who knowingly violates any provision of this act shall be guilty of a severity level 9, nonperson felony. Each transaction in violation of this act and each day that a violation continues shall be a separate offense. Whenever a corporation violates any provision of this act, such violation shall be attributed to individual directors, officers and agents who have authorized, ordered or performed any of the acts constituting such violation.

(e) A corporation and its directors, officers and agents may each be prosecuted separately for violations of this act, and the acquittal or conviction of one such director, officer or agent shall not abate the prosecution of the others.

(f) Whenever it appears that a person has violated, or is likely to violate, this act, rules and regulations adopted thereunder, or an order issued pursuant to this act, then the commissioner may bring an action for injunctive relief to enjoin the violation or enforce compliance, regardless of whether or not criminal proceedings have been instituted. Any person who engages in activities that are regulated and require a license under this act shall be considered to have consented to the jurisdiction of the courts of this state for all actions arising under this act.

Sec. 2. K.S.A. 40-4308 is hereby amended to read as follows: 40-4308.

(a) Whenever the commissioner deems it necessary, but at least once every three years, the commissioner may make, or direct to be made, a financial examination of any captive insurance company in the process of organization, or applying for admission or doing business in Kansas. The commissioner may engage in continuous analysis for the preparation of the examination. In addition, at the commissioner's discretion, the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in Kansas.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners in effect when the commissioner exercises discretion under this subsection.

(c) The commissioner shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner shall be empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

(d) For the purpose of such analysis, the commissioner may require reports and other documents be filed with the commissioner.

(e) The commissioner may also examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company, but such examination or investigation shall not infringe upon or extend to any communications or information accorded privileged or confidential status under any other laws of this state.

(f) Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall appoint one or more examiners to perform the examination and instruct ~~them~~ *such examiners* as to the scope of the examination. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

(g) When making an examination under this act, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be ~~borne~~ *paid* by the company that is the subject of the examination.

(h) (1) ~~No~~ *Not* later than 30 days following completion of the examination or at such earlier time as the commissioner shall prescribe, the examiner in charge shall file with the department a verified written report of examination under oath. ~~No~~ *Not* later than 30 days following receipt of the verified report, the department shall transmit the report to the company examined, together with a notice that shall afford such company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(2) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners' workpapers, and enter an order:

(A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule and regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations;

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information; or

(C) call for and conduct a fact-finding hearing in accordance with K.S.A. 40-281, and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

(3) All orders entered as a result of revelations contained in the final examination report shall be accompanied by findings and conclusions result-

ing from the commissioner's consideration and review of the examination report, relevant examiner work papers and any written submissions or rebuttals. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(4) Upon the adoption of the examination report of an association captive insurance company, the commissioner shall hold the content of the examination report as private and confidential as to the pure captive insurance company. Nothing contained in this act shall be construed to limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report in the furtherance of any legal or regulatory action that the commissioner may, in the commissioner's discretion, deem appropriate.

(i) Nothing contained in this act shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.

(j) All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the commissioner from using such information in furtherance of the commissioner's regulatory authority under this act. The commissioner may grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of Kansas or any other state or agency of the federal government at any time. Access may also be granted to the national association of insurance commissioners and its affiliates, and the international association of insurance supervisors and its affiliates. Persons receiving such information must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

(k) The commissioner may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners, and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential

or privileged under the laws of the jurisdiction that is the source of the document, material or information. Documents received pursuant to this section shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto. ~~The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-220, and amendments thereto, prior to July 1, 2023.~~

Sec. 3. K.S.A. 40-4350 is hereby amended to read as follows: 40-4350. (a) Documents, materials or other information obtained by or disclosed to the commissioner pursuant to K.S.A. 40-4332 through 40-4352, and amendments thereto, shall:

(1) Be confidential and privileged, except as provided in K.S.A. 40-4347, and amendments thereto; and

(2) not be subject to disclosure under the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. ~~The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-220, and amendments thereto, prior to July 1, 2023.~~

(b) The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates that would be affected thereby notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, determines that the interests of policyholders, shareholders or the public would be served by the publication thereof, in which event, the commissioner may publish all or any part thereof in such a manner as the commissioner may deem appropriate. In making such determination, the commissioner of insurance also shall take into consideration any potential adverse consequences of the disclosure thereof.

(c) Neither the commissioner of insurance nor any person who received documents, materials or other information while acting under the authority of the commissioner of insurance or with whom such documents, materials or other information are shared pursuant to this section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a).

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

(1) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (a), with federal and international regulatory agencies, and the NAIC and its affiliates, ~~provided that~~ *if* the recipient agrees in writing to maintain the confidentiality and privileged status of the document, ma-

terial or other information; and has verified in writing the legal authority to maintain confidentiality;

(2) receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the national association of insurance commissioners, and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions; and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information. Documents received pursuant to this section shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto. ~~The provisions of this paragraph shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023; and~~

(3) Sharing agreements provided for in subsection (d) shall:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this act, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal or international regulators;

(B) specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this act remains with the commissioner, and the NAIC's use of the information is subject to the direction of the commissioner;

(C) require prompt notice to be given to an insurer and its affiliates whose confidential information in the possession of the NAIC, pursuant to this act, *that such information* is subject to a request or subpoena to the NAIC for disclosure or production; and

(D) require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer and its affiliates shared with the NAIC and its affiliates and subsidiaries pursuant to this act. Documents, materials or other information in the possession or control of the national association of insurance commissioners shall be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena; and shall not be subject to discovery or admissible in evidence in any private civil action. ~~The provisions of this paragraph shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

(e) The sharing of information by the commissioner of insurance, pursuant to this act, shall not constitute a delegation of regulatory authority or rulemaking authority, and the commissioner of insurance is solely responsible for the administration, execution and enforcement of the provisions of this act.

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner of insurance under this act or as a result of sharing as authorized in subsection (d).

Sec. 4. K.S.A. 45-229 is hereby amended to read as follows: 45-229.

(a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

(1) The public record is of a sensitive or personal nature concerning individuals;

(2) the public record is necessary for the effective and efficient administration of a governmental program; or

(3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) Subject to the provisions of subsections (g) and (h), any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to continue the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house

of representatives, by July 15, the language and statutory citation of each exception that will expire in the following year that meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law that creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law that creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system;
- (3) has been reviewed and continued in existence twice by the legislature; or
- (4) has been reviewed and continued in existence by the legislature during the 2013 legislative session and thereafter.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception;
- (B) whom does the exception uniquely affect, as opposed to the general public;
- (C) what is the identifiable public purpose or goal of the exception;
- (D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) an exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

- (A) Allows the effective and efficient administration of a governmental program that would be significantly impaired without the exception;
- (B) protects information of a sensitive personal nature concerning individuals, the release of such information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, if the disclosure of such information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) would occur if the records were made public.

(i) (1) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7511, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 45-221(a)(1) through (43), 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-2232, 72-3438, 72-6116, 72-6267, 72-9934, 73-1228, 74-2424, 74-2433f, 74-32,419, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-12c03, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been

reviewed during the 2015 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-4616, 60-3351, 72-3415, 74-50,217 and 75-53,105.

(j) (1) Exceptions contained in the following statutes as continued in existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas and that have been reviewed and continued in existence twice by the legislature as provided in subsection (g) are hereby continued in existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(2) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2015 and that have been reviewed during the 2016 legislative session are hereby continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been reviewed during the 2014 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48), 50-6a11, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06, 77-503a and 82a-2210.

(l) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2016 and that have been reviewed during the 2017 legislative session are hereby continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

(m) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2012 and that have been reviewed during the 2013 legislative session and continued in existence by the legislature as provided in subsection (g) are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-8268, 75-712 and 75-5366.

(n) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) and that have been

reviewed during the 2018 legislative session are hereby continued in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832, 65-6834, 75-7c06 and 75-7c20.

(o) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2019 legislative session are hereby continued in existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d) and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of 65-6230, 72-6314(a) and 74-7047(b).

(p) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2020 legislative session are hereby continued in existence: 38-2310(c), 40-409(j)(2), 40-6007(a), 45-221(a)(52), 46-1129, 59-29a22(b)(10) and 65-6747.

(q) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2021 legislative session are hereby continued in existence: 22-2302(c)(4)(J) and (c)(6)(B), 22-2502(e)(4)(J) and (e)(6)(B) and 65-6111(d)(4).

(r) *Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) that have been reviewed during the 2023 legislative session are hereby continued in existence: 2-3902 and 66-2020.*

Sec. 5. K.S.A. 65-177 is hereby amended to read as follows: 65-177. (a) (1) “Data,” as used in K.S.A. 65-177 through 65-179, and amendments thereto, includes all facts, information, records of interviews, written reports, statements, notes or memoranda secured in connection with an authorized medical research study.

(2) “Maternal death” means the death of any woman from any cause while pregnant or within one calendar year of the end of any pregnancy, regardless of the duration of the pregnancy or the site of the end of the pregnancy.

(b) (1) The secretary of health and environment shall have access to all law enforcement investigative information regarding a maternal death in Kansas, any autopsy records and coroner’s investigative records relating to the death, any medical records of the mother and any records of the Kansas department for children and families or any other state social service agency that has provided services to the mother.

(2)-(A) The secretary may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any maternal death being investigated by the secretary. Any books, records or papers received by the secretary pursuant to the subpoena shall be confidential and privileged information and not subject to disclosure.

~~(B) The provisions of this paragraph providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

(c) The secretary of health and environment shall:

- (1) Identify maternal death cases;
- (2) review medical records and other relevant data;
- (3) contact family members and other affected or involved persons to collect additional relevant data;
- (4) consult with relevant experts to evaluate the records and data collected;
- (5) make determinations regarding the preventability of maternal deaths;
- (6) develop recommendations and actionable strategies to prevent maternal deaths; and
- (7) disseminate findings and recommendations to the legislature, healthcare providers, healthcare facilities and the general public.

(d) (1) Healthcare providers licensed pursuant to chapters 65 and 74 of the Kansas Statutes Annotated, and amendments thereto, medical care facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, maternity centers licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and pharmacies licensed pursuant to article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall provide reasonable access to all relevant medical records associated with a maternal death case under review by the secretary.

(2) A healthcare provider, medical care facility, maternity center or pharmacy providing access to medical records pursuant to this section shall not be held liable for civil damages or be subject to criminal or disciplinary administrative action for good faith efforts to provide such records.

~~(e)-(1)~~ Information, records, reports, statements, notes, memoranda or other data collected pursuant to this section shall be privileged and confidential and shall not be admissible as evidence in any action of any kind in any court or before another tribunal, board, agency or person. Such information, records, reports, statements, notes, memoranda or other data shall not be exhibited nor their contents disclosed in any way, in

whole or in part, by any officer or representative of the department of health and environment or any other person, except as may be necessary for the purpose of furthering the investigation of the case to which they relate. No person participating in such investigation shall disclose, in any manner, the information so obtained.

~~(2) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

(f) (1) All proceedings and activities of the secretary or representatives of the secretary under this section, opinions of the secretary or representatives of the secretary formed as a result of such proceedings and activities and records obtained, created or maintained pursuant to this section, including records of interviews, written reports and statements procured by the secretary or any other person, agency or organization acting jointly or under contract with the department of health and environment in connection with the requirements of this section, shall be confidential and not subject to the provisions of the open records act or the open meetings act or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. Nothing in this section shall be construed to limit or otherwise restrict the right to discover or use in any civil or criminal proceeding any document or record that is available and entirely independent of proceedings and activities of the secretary or representatives of the secretary under this section.

(2) The secretary or representatives of the secretary shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of an investigation. Nothing in this section shall be construed to prevent the secretary or representatives of the secretary from testifying to information obtained independently of this section or that is public information.

~~(3) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

(g) Reports of aggregate non-individually identifiable data shall be compiled on a routine basis for distribution in an effort to further study the causes and problems associated with maternal deaths. Reports shall be distributed to healthcare providers and medical care facilities and other persons necessary to reduce the maternal death rate.

(h) The secretary of health and environment shall receive data secured in connection with medical research studies conducted for the

purpose of reducing morbidity or mortality from maternal, perinatal and anesthetic causes. Such studies may be conducted by the secretary of health and environment and staff or with other qualified persons, agencies or organizations. If such studies are conducted with any funding not provided by the state of Kansas, then the source of such funding shall be clearly identified in such study. Where authorization to conduct such a study is granted by the secretary of health and environment, all data voluntarily made available to the secretary of health and environment in connection with such study shall be treated as confidential and shall be used solely for purposes of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal, except that statistics or tables resulting from such data shall be admissible and may be received as evidence. This section shall not affect the right of any patient or such patient's guardians, representatives or heirs to require hospitals, physicians, sanatoriums, rest homes, nursing homes or other persons or agencies to furnish such patient's hospital record to such patient's representatives upon written authorization, or the admissibility in evidence thereof.

(i) No employee of the secretary of health and environment shall interview any patient named in any such report, nor any relative of any such patient, unless otherwise provided in K.S.A. 65-2422d, and amendments thereto. Nothing in this section shall prohibit the publication by the secretary of health and environment, or a duly authorized cooperating person, agency or organization, of final reports or statistical compilations derived from morbidity or mortality studies, ~~which if such~~ reports or compilations do not identify individuals, associations, corporations or institutions ~~which that~~ were the subjects of such studies; or reveal sources of information.

Sec. 6. K.S.A. 65-28b08 is hereby amended to read as follows: 65-28b08. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for

a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2022 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. ~~The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;~~

(5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to ~~that~~ *such* act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country; or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022 Supp. 21-5407, and amendments thereto;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto; or

(C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 2022 Supp. 21-5903, and amendments thereto.

(c) As used in this section, “professional incompetency” means:

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

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

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

(d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.

~~(e) The provisions of this section shall become effective on January 1, 2017.~~

Sec. 7. K.S.A. 74-5611a is hereby amended to read as follows: 74-5611a. (a) (1) The commission shall establish and maintain a central registry of all Kansas police officers or law enforcement officers.

(2) The purpose of the registry is to be a resource for all agencies who appoint or elect police or law enforcement officers to use when reviewing employment applications of such officers. The registry shall include all records received or created by the commission pursuant to this section and all records related to violations of the Kansas law enforcement training act, including, but not limited to, records of complaints received or maintained by the commission.

(3) All records contained in the registry are confidential and shall not be disclosed pursuant to the Kansas open records act, except such records may be disclosed as provided in subsections (a)(4) and (a)(5) and the Kansas administrative procedure act. ~~The provisions of this paragraph shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

(4) Records contained in the registry, other than investigative files, shall be disclosed:

(A) To an agency that certifies, appoints or elects police or law enforcement officers;

(B) to the person who is the subject of the information, but the commission may require disclosure in such a manner as to prevent identification of any other person who is the subject or source of the information;

(C) in any proceeding conducted by the commission in accordance with the Kansas administrative procedure act, or in an appeal of an order of the commission entered in a proceeding, or to a party in such proceeding or that party's attorney;

(D) to a municipal, state or federal licensing, regulatory or enforcement agency with jurisdiction over acts or conduct similar to acts or conduct that would constitute grounds for action under this act; and

(E) to the director of police training when such disclosure is relevant to the exercise of the authority granted in K.S.A. 74-5604a(b), and amendments thereto.

(5) The following records may be disclosed to any person pursuant to the Kansas open records act:

(A) A record containing only:

(i) A police or law enforcement officer's name;

(ii) the name of a police or law enforcement officer's current employer;

(iii) the police or law enforcement officer's dates of employment with the police or law enforcement officer's current employer;

(iv) the name of previous law enforcement employers and the dates of employment with each employer;

(v) a summary of the trainings completed by the police or law enforcement officer as reported to the commission; and

(vi) the status of the police or law enforcement officer's certification under this act; and

(B) statewide summary data without personally identifiable information.

(6) The provisions of K.S.A. 45-221(a), and amendments thereto, shall apply to any records disclosed pursuant to subsection (a)(4) or (a)(5).

(b) The director shall provide forms for registration and shall refuse any registration not submitted on such form in full detail.

(c) Within 30 days of appointment, election or termination, every city, county and state agency, every school district and every community college shall submit the name of any person appointed or elected to or terminated from the position of police officer or law enforcement officer within its jurisdiction.

(d) Upon termination, the agency head shall include a report explaining the circumstances under which the officer resigned or was terminated.

Such termination report shall be available to the terminated officer and any law enforcement agency to which the terminated officer later applies for a position as a police officer or law enforcement officer. The terminated officer may submit a written statement in response to the termination, and any such statement shall be included in the registry file concerning such officer. The director shall adopt a format for the termination report.

(e) The agency, agency head and any officer or employee of the agency shall be absolutely immune from civil liability:

(1) For the report made in accordance with subsection (d); and

(2) when responding in writing to a written request concerning a current or former officer from a prospective law enforcement agency of that officer for the report made in accordance with subsection (d) and for the disclosure of such report.

Sec. 8. K.S.A. 75-7240 is hereby amended to read as follows: 75-7240. The executive branch agency heads shall:

(a) Be solely responsible for security of all data and information technology resources under such agency's purview, irrespective of the location of the data or resources. Locations of data may include: (1) Agency sites; (2) agency real property; (3) infrastructure in state data centers; (4) third-party locations; and (5) in transit between locations;

(b) ensure that an agency-wide information security program is in place;

(c) designate an information security officer to administer the agency's information security program that reports directly to executive leadership;

(d) participate in CISO-sponsored statewide cybersecurity program initiatives and services;

(e) implement policies and standards to ensure that all the agency's data and information technology resources are maintained in compliance with applicable state and federal laws and rules and regulations;

(f) implement appropriate cost-effective safeguards to reduce, eliminate or recover from identified threats to data and information technology resources;

(g) include all appropriate cybersecurity requirements in the agency's request for proposal specifications for procuring data and information technology systems and services;

(h) (1) submit a cybersecurity assessment report to the CISO by October 16 of each even-numbered year, including an executive summary of the findings, that assesses the extent to which a computer, a computer program, a computer network, a computer system, a printer, an interface to a computer system, including mobile and peripheral devices, computer software, or the data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent

to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, erasure or inappropriate use;

(2) ensure that the agency conducts annual internal assessments of its security program. Internal assessment results shall be considered confidential and shall not be subject to discovery by or release to any person or agency outside of the KISO or CISO. ~~This provision regarding confidentiality shall expire on July 1, 2023, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023; and~~

(3) prepare or have prepared a summary of the cybersecurity assessment report required in paragraph (1), excluding information that might put the data or information resources of the agency or its contractors at risk and submit such report to the house of representatives committee on government, technology and security or its successor committee and the senate committee on ways and means;

(i) participate in annual agency leadership training to ensure understanding of: (1) The information and information systems that support the operations and assets of the agency; (2) the potential impact of common types of cyberattacks and data breaches on the agency's operations and assets; (3) how cyberattacks and data breaches on the agency's operations and assets could impact the operations and assets of other governmental entities on the state enterprise network; (4) how cyberattacks and data breaches occur; (5) steps to be undertaken by the executive director or agency head and agency employees to protect their information and information systems; and (6) the annual reporting requirements required of the executive director or agency head; and

(j) ensure that if an agency owns, licenses or maintains computerized data that includes personal information, confidential information or information, the disclosure of which is regulated by law, such agency shall, in the event of a breach or suspected breach of system security or an unauthorized exposure of that information:

(1) Comply with the notification requirements set out in K.S.A. 2022 Supp. 50-7a01 et seq., and amendments thereto, and applicable federal laws and rules and regulations, to the same extent as a person who conducts business in this state; and

(2) not later than 48 hours after the discovery of the breach, suspected breach or unauthorized exposure, notify: (A) The CISO; and (B) if the breach, suspected breach or unauthorized exposure involves election data, the secretary of state.

Sec. 9. K.S.A. 75-7242 is hereby amended to read as follows: 75-7242. Information collected to effectuate this act shall be considered confidential by the executive branch agency and KISO unless all data elements or information that specifically identifies a target, vulnerability or weakness

that would place the organization at risk have been redacted, including: (a) System information logs; (b) vulnerability reports; (c) risk assessment reports; (d) system security plans; (e) detailed system design plans; (f) network or system diagrams; and (g) audit reports. ~~The provisions of this section shall expire on July 1, 2023, unless the legislature reviews and re-enacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.~~

Sec. 10. K.S.A. 9-512, 40-4308, 40-4350, 45-229, 65-177, 65-28b08, 74-5611a, 75-7240 and 75-7242 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 14, 2023.

CHAPTER 26

HOUSE BILL No. 2290

AN ACT concerning higher education; authorizing the affiliation of northwest Kansas technical college and north central Kansas technical college with Fort Hays state university; amending K.S.A. 74-32,452, 74-32,461, 74-32,464 and 76-6a13 and repealing the existing sections.

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

New Section 1. (a) Northwest Kansas technical college and north central Kansas technical college, authorized and designated as technical colleges pursuant to K.S.A. 74-32,464 and 74-32,461, and amendments thereto, respectively, with governing boards established pursuant to K.S.A. 74-32,452, and amendments thereto, are hereby affiliated with Fort Hays state university. The institutional infrastructures of these technical colleges are hereby officially designated as Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college and shall be governed by and operated as technical colleges within Fort Hays state university.

(b) The governing bodies of northwest Kansas technical college and north central Kansas technical college shall become industry or regional advisory boards to the president of Fort Hays state university for Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college. All of the powers and duties established in the governing body of such technical college by law shall be transferred to Fort Hays state university, subject to the rules and regulations and supervision of the state board of regents. The president of Fort Hays state university shall appoint the members of the industry or regional advisory boards. The members of the advisory boards shall represent industry sectors or regions that correspond to the programs offered by Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college.

(c) Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college shall offer programs approved by Fort Hays state university, including credential and degree programs that technical colleges are authorized by law to award. The industry or regional advisory boards shall:

(1) Review non-credit and credit programs with the president and senior leadership of Fort Hays state university, Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college to ensure such programs are aligned with current and emerging needs of industry and the community for an educated and trained workforce;

(2) provide input relating to changes in each advisory board member's industry sector or region that affect academic programs;

(3) perform any operational responsibilities or duties specified in the formal affiliation agreement referenced in subsection (j); and

(4) perform such other responsibilities as requested by the president of Fort Hays state university.

(d) Nothing in this section shall be construed as altering any admission requirements applicable to the respective educational institutions, and each affiliating institution shall continue to be subject to any applicable admission requirements imposed by law. Fort Hays state university shall not admit degree-seeking first-time freshmen or transfer students to university programs who do not meet the applicable qualified admission standards.

(e) Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college shall continue to be technical colleges and shall be eligible for funding that is available to technical colleges to the extent provided by law. The amounts of such funding are to be determined in the same manner as provided by law for technical colleges.

(f) Whenever northwest Kansas technical college, northwest Kansas technical school, northwest Kansas area vocational-technical school or northwest tech, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to Fort Hays state university – northwest Kansas technical college. Whenever north central Kansas technical college, north central Kansas area vocational-technical school or NCK tech, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to Fort Hays state university – north central Kansas technical college. Except as otherwise provided in this section, the provisions of all statutes of general application to area vocational schools, area vocational technical schools or technical colleges shall apply to Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college. Whenever area vocational schools, area vocational-technical schools or technical colleges are defined, referred to or designated in a statute, such definition, referral or designation shall be deemed to apply to Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college.

(g) The formal affiliation agreement between northwest Kansas technical college, north central Kansas technical college and Fort Hays state university shall include provisions relating to the manner and terms upon which faculty, employees and students may be transferred to Fort Hays state university. Such provisions shall specify terms of employment and include other personnel matters. Subject to the authorization of the state board of regents, all personnel of northwest Kansas technical college and north central Kansas technical college who are necessary to the operation

of Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college, in accordance with the needs of Fort Hays state university, may become personnel of Fort Hays state university. The employment of such personnel shall be deemed uninterrupted.

(h) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or that could have been commenced, by or against northwest Kansas technical college or north central Kansas technical college prior to affiliation, or by or against any personnel of such technical colleges, shall abate by reason of such affiliation. Any such suit, action or other proceeding may be allowed to be maintained by or against Fort Hays state university – northwest Kansas technical college or Fort Hays state university – north central Kansas technical college, as the case may be. No criminal action commenced or that could have been commenced by northwest Kansas technical college or north central Kansas technical college prior to affiliation shall abate by reason of such affiliation.

(i) The affiliation provided for by this section shall not affect any contract, agreement or assurance in effect on the effective date of this section.

(j) The provisions of this section shall be effective upon approval of a formal affiliation agreement that is consistent with these provisions by the state board of regents and the governing bodies of northwest Kansas technical college and north central Kansas technical college and on and after the date the higher learning commission of the north central association of colleges and schools approves the affiliation described in subsection (a). If only one of the governing bodies of the technical colleges provides approval of a formal affiliation agreement as set forth herein, the provisions of this section shall still be considered effective as to the affiliation between Fort Hays state university and the technical college whose governing body provided approval of the formal affiliation agreement.

Sec. 2. K.S.A. 74-32,452 is hereby amended to read as follows: 74-32,452. (a) Except as provided in ~~subsection (d)~~ *subsections (d) and (e)*, all technical colleges shall establish and maintain a plan for a governing board, which shall be separate and independent of any board of education of any school district, to operate, control and manage the technical college. The plan shall include, but not be limited to, provisions relating to:

- (1) The composition of the independent governing board;
- (2) the territory of the technical college. If the territory of the technical college includes more than one county, the plan shall designate a home county;
- (3) the method of election or appointment and the terms of service of the members of the independent governing board;
- (4) the date upon which the independent governing board shall assume management and control of the technical college;

(5) the manner, terms upon which and extent to which the facilities will be transferred to the independent governing board and the division of other assets and indebtedness and other liabilities; and

(6) the manner and terms upon which faculty, employees and students will be transferred to the independent governing board. Subject to the provisions of K.S.A. 74-32,466, and amendments thereto, such provisions shall specify terms of employment and address other personnel matters.

(b) On the date determined in the approved plan, the independent governing board established under subsection (a) shall operate subject to the rules, regulations and supervision of the state board of regents in the same manner as other technical colleges. Any amendments to the plan shall be submitted to the state board of regents for approval.

(c) In addition to such other powers expressly granted by law and subject to the provisions of subsection (b), the governing board shall have the power to:

(1) Determine the career technical and general education courses of instruction that will comprise the associate of applied science degree programs of the college;

(2) establish the requirements for satisfactory completion of the associate of applied science degree programs of the college;

(3) confer the associate of applied science degree upon students who successfully complete an associate of applied science degree program of the college and to award a certificate or diploma to students who successfully complete a career technical education program of the college;

(4) appoint teaching staff and fix and determine teacher qualifications, duties and compensation. No teacher appointed to teach courses comprising the associate of applied science degree programs of the college shall be required to meet licensure requirements greater than those required in the state educational institutions;

(5) have custody of, and be responsible for, the property of the college and be responsible for the operation, management and control of the college;

(6) select a chairperson and such other officers as it deems desirable, from its membership;

(7) sue and be sued;

(8) appoint and fix the compensation and term of office of a president or chief administrative officer of the college;

(9) fix and determine, within state adopted standards, all other employees' qualifications, duties, compensation and all other items and conditions of employment;

(10) enter into contracts;

(11) accept any gifts, grants or donations;

(12) acquire and dispose of real or personal property;

(13) enter into lease agreements as lessor of any property owned or controlled by the college;

(14) adopt any rules and regulations, not inconsistent with any law or any rules and regulations of the state board of regents, which are necessary for the administration and operation of the college or for the conduct of business of the governing board;

(15) contract with one or more agencies, either public or private, whether located within or outside the territory of the college or whether located within or outside the state of Kansas, for the conduct by any such agency of academic or career technical education for students of the college and to provide for the payment to any such agency for the contracted educational services from any funds or moneys of the college, including funds or moneys received from student tuition and fees;

(16) appoint as its resident agent for the purpose of service of process, either the president of the technical college or the chairperson of the governing board, or both;

(17) take any other action, not inconsistent with any law or any rules and regulations of the state board of regents, which is necessary or incidental to the establishment, operation and maintenance of the college;

(18) issue bonds for capital improvement projects, enter into bond covenants and take such ancillary action as the governing board approves, relating thereto, except that such bonds shall not be secured by a pledge of any property tax revenues of the technical college;

(19) enter into agreements with counties relating to funding for capital improvement projects at technical colleges;

(20) fix different rates per hour of tuition, fees and charges for the different postsecondary programs administered by such board; and

(21) to acquire by lease-purchase any property, whether real, personal, or mixed, or any interest therein, which is necessary or desirable for technical college purposes. The term of any lease-purchase agreement entered into under authority of this subsection may be for not to exceed 10 years. Such lease-purchase agreement may provide for annual or other payment of rent or rental fees and may obligate the technical college to payment of maintenance or other expenses. Any lease-purchase agreement entered into under authority of this subsection shall be subject to change or termination at any time by the legislature. Any assignment of rights in any lease-purchase made under this subsection shall contain a citation of this section and a recitation that the lease-purchase agreement and assignment thereof are subject to change or termination by the legislature.

(d) Pursuant to K.S.A. 74-32,459(b), and amendments thereto, Wichita state university campus of applied sciences and technology shall be governed by Wichita state university, subject to rules and regulations of the state board of regents.

(e) Pursuant to section 1(b), and amendments thereto, Fort Hays state university – northwest Kansas technical college and Fort Hays state university – north central Kansas technical college shall be governed by Fort Hays state university, subject to rules and regulations of the state board of regents.

Sec. 3. K.S.A. 74-32,461 is hereby amended to read as follows: 74-32,461. (a) The north central Kansas area vocational-technical school ~~is authorized to be previously converted to and established as a by law as north central Kansas technical college and, upon such conversion and establishment as provided by law,~~ shall be officially designated as the Fort Hays state university – north central Kansas technical college.

(b) Whenever the north central Kansas area vocational-technical school or north central Kansas technical college is referred to or designated by or in any statute, contract or other document, such reference or designation shall be deemed to apply to the Fort Hays state university – north central Kansas technical college.

(c) The designation of north central Kansas technical college as Fort Hays state university – north central Kansas technical college shall be effective upon approval of a formal affiliation agreement that is consistent with section 1, and amendments thereto, by the state board of regents and the governing body of north central Kansas technical college and on and after the date the higher learning commission of the north central association of colleges and schools approves the affiliation described in section 1(a), and amendments thereto.

Sec. 4. K.S.A. 74-32,464 is hereby amended to read as follows: 74-32,464. (a) The northwest Kansas area vocational-technical school, also known as the northwest Kansas technical school, ~~is authorized to be previously converted to and established as a by law as northwest Kansas technical college and, upon such conversion and establishment as provided by law,~~ shall be officially designated as the Fort Hays state university – northwest Kansas technical college.

(b) Whenever the northwest Kansas area vocational-technical school, ~~or~~ the northwest Kansas technical school, or northwest Kansas technical college is referred to or designated by or in any statute, contract or other document, such reference or designation shall be deemed to apply to the Fort Hays state university – northwest Kansas technical college.

(c) The designation of northwest Kansas technical college as Fort Hays state university – northwest Kansas technical college shall be effective upon approval of a formal affiliation agreement that is consistent with section 1, and amendments thereto, by the state board of regents and the governing body of northwest Kansas technical college and on and after the date the higher learning commission of the north central association of colleges and schools approves the affiliation described in section 1(a), and amendments thereto.

Sec. 5. K.S.A. 76-6a13 is hereby amended to read as follows: 76-6a13. As used in this act, unless the context otherwise requires:

- (a) “Board” means the:
 - (1) State board of regents ~~or the~~;
 - (2) board of regents of a municipal university ~~or the~~;
 - (3) governing board of the northwest Kansas technical college or *Fort Hays state university* as the governing board of the northwest Kansas technical college upon approval of a formal affiliation agreement pursuant to section 1, and amendments thereto;
 - (4) governing board of the north central Kansas technical college or *Fort Hays state university* as the governing board of the north central Kansas technical college upon approval of a formal affiliation agreement pursuant to section 1, and amendments thereto; ~~or the~~
 - (5) board of trustees of any community college.
- (b) “Institution” means and includes:
 - (1) Any state educational institution operated and managed under the control and supervision of the state board of regents;
 - (2) any municipal university organized under the laws of Kansas;
 - (3) any community college, ~~the~~;
 - (4) northwest Kansas technical college or *Fort Hays state university* – northwest Kansas technical college upon approval of a formal affiliation agreement pursuant to section 1, and amendments thereto; ~~and the~~
 - (5) north central Kansas technical college or *Fort Hays state university* – north central Kansas technical college upon approval of a formal affiliation agreement pursuant to section 1, and amendments thereto.
- (c) “Building,” when heretofore or hereafter acquired or constructed by the state board of regents for any state educational institution under the control and supervision of the state board of regents, means and includes one or more dormitories, kitchens, dining halls, student union buildings, field houses, student hospitals, libraries, on-campus parking, hospital buildings or facilities for the university of Kansas medical center, including outpatient treatment or support facilities and acquisition of any real estate therefor, additions heretofore or hereafter erected in connection therewith, or rehabilitation or renovation of an existing building, or any combination thereof, or any stadium, structure or facility when the same is deemed necessary by the state board of regents to carry out the purposes of the institution, or additions heretofore or hereafter erected in connection with such stadium, structure or facility. The state board of regents shall not issue any revenue bonds for acquisition or construction of any building, structure or facility or additions erected in connection therewith, or for rehabilitation or renovation of an existing building, as authorized by this section, unless such acquisition, construction or rehabilitation or renovation has been authorized by appropriation or other act

of the legislature and the state board of regents has first advised and consulted on such acquisition, construction or rehabilitation or renovation with the joint committee on state building construction.

(d) “Revenue bonds” means bonds issued by a board under authority of K.S.A. 76-6a13 et seq., and amendments thereto, and payable as to both principal and interest solely and only out of (1) the income and revenues arising from the operation of the building for which such bonds are issued, or (2) in the case of a building to be constructed for an institution under the control and supervision of the state board of regents and upon a determination by the state board of regents that the best interests of the state and the institution will be served thereby, the revenues derived from student fees levied for this purpose or for other bonds after such other bonds are retired, or both, (3) any combination of the revenues described in clause (1) or (2), and (4) in addition to the revenues described in clauses (1), (2) or (3), in the discretion of the board, out of one or both of the following additional sources: (A) The proceeds of any grant in aid of such project which may be received from any source, and (B) the net income and revenues arising from the operation of another building already owned and operated by the board and located on the same campus of the institution where the building for which bonds are to be issued will be located.

(e) “Net income and revenue” means the income arising from the operation of a building remaining after providing for the costs of operation of such building and the costs of maintenance thereof.

(f) “Building,” when heretofore or hereafter acquired or constructed by a board other than the state board of regents, means and includes one or more dormitories, kitchens, dining halls, student union buildings, field houses, student hospitals, libraries, on-campus parking or additions heretofore or hereafter erected in connection therewith, or any combination thereof.

Sec. 6. K.S.A. 74-32,452, 74-32,461, 74-32,464 and 76-6a13 are hereby repealed.

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

Approved April 14, 2023.

CHAPTER 27

Senate Substitute for HOUSE BILL No. 2016*

AN ACT concerning civil actions and civil procedure; enacting the act against abusive website access litigation; creating a civil action for determining whether litigation that alleges any website access violation under the Americans with disabilities act or similar law constitutes abusive litigation and authorizing penalties for such abusive litigation.

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

Section 1. (a) (1) This section shall be known and may be cited as the act against abusive website access litigation.

(2) The purpose of this section is to restrict abusive litigation while allowing for meritorious litigation. It has long been declared to be the policy of this state pursuant to the Kansas act against discrimination, K.S.A. 44-1001, et seq., and amendments thereto, that people with disabilities must be assured equal opportunities to full access to public accommodations and that they are empowered to enforce the right to equal access through litigation, if necessary. The legislature recognizes, however, that in a small minority of cases, the use of litigation to assert the right to equal access is being abused for the primary purpose of obtaining an award of attorney fees for the plaintiff instead of remedying the alleged access violation. This small minority of cases often involve an alleged lack of equal access to a public accommodation's internet site and are almost always filed in another state's court system against smaller Kansas businesses. In most cases, the litigation is filed without notifying the public accommodation of the alleged violation, attempting to resolve the issue pre-litigation and providing a reasonable opportunity for the public accommodation to revise its website to remedy the alleged access violation. In order to address the abuse of the legal system by litigants claiming lack of equal access to websites under state and federal anti-discrimination statutes, the state intends to provide a process to curb abusive litigation to mitigate the harms that abusive litigation perpetuates. The state, however, intends that this process shall not be used to preclude a person with a disability from asserting their right to equal access to a public accommodation under the law either as an individual or as a class through litigation in a court in this state brought in good faith to remedy an alleged equal access violation and not for the primary purpose to obtain an award of attorney fees for the plaintiff. The lack of standards issued by the federal department of justice concerning website accessibility under title III of the federal Americans with disabilities act has resulted in the need for this process.

(b) (1) Pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, the attorney general, on behalf of a class of residents under K.S.A. 60-223, and amendments thereto, that is subject to

litigation that alleges any website access violation and any resident of this state that is subject to litigation that alleges any website access violation may file a civil action in any court of competent jurisdiction within this state against the party, attorney or law firm that initiated such litigation for a determination as to whether or not such litigation alleging a website access violation is abusive litigation.

(2) In determining whether any litigation that alleges any website access violation constitutes abusive litigation, the trier of fact shall consider the totality of the circumstances to determine if the primary purpose of the litigation that alleges a website access violation is obtaining a payment from a defendant due to the costs of defending the action in court. For the purposes of making this determination, the trier of fact may assess the following factors and any other factors the trier of fact deems relevant:

(A) The number of substantially similar actions filed by the same plaintiff, lawyer or law firm or the history of such plaintiff, lawyer or law firm in bringing frivolous litigation or other litigation declared by a court to be abusive litigation in the past 10 years;

(B) the number of full-time employees employed by the defendant and the resources available to the defendant to engage in the litigation;

(C) the resources available to the defendant to correct the alleged website access violation;

(D) whether the jurisdiction or venue where the action is brought is a substantial obstacle to defending against the litigation;

(E) whether the filing party or lawyer filing the litigation is a resident of this state or is licensed to practice law in this state;

(F) the nature of settlement discussions and the reasonableness of settlement offers and refusals to settle. The application of such settlement information shall only be used as provided by this section and shall not otherwise alter the rules of evidence applicable to such court; and

(G) whether any factors under K.S.A. 60-211(b), and amendments thereto, exist in the litigation and whether sanctions are appropriate under K.S.A. 60-211(c), and amendments thereto.

(3) Except as provided further, if the defendant in the litigation that alleges a website access violation in good faith attempts to cure the alleged violation within 30 days after being provided written notice or being served a petition or complaint with sufficient detail to identify and correct the alleged violation, there shall be a rebuttable presumption that the subsequent initiation or continuance of litigation that alleges a website access violation constitutes abusive litigation. There shall not be a rebuttable presumption that such litigation is abusive litigation if the alleged website access violation is not corrected, as determined by the court, within 90 days after being provided written notice or being served

a petition or complaint with sufficient detail to identify and correct the alleged violation. The trier of fact shall not determine whether such litigation is abusive litigation until after such 90-day period expires or the alleged violation is corrected, as determined by the court, whichever occurs first.

(c) If the Kansas attorney general determines in writing that the litigation alleging a website access violation is not abusive and such written determination is attached to the petition in the litigation alleging a website access violation, there shall be a rebuttable presumption that such litigation is not abusive.

(d) If the trier of fact determines that an initiator of an action under subsection (b) is a defendant in abusive litigation, the court may award reasonable attorney fees and costs in bringing the action under subsection (b) as well as defending against the abusive litigation to be paid by the party bringing the abusive litigation. In addition, the court may award punitive damages or sanctions not to exceed three times the amount of attorney fees awarded by the court.

(e) At the conclusion of the litigation alleging a website access violation, the court shall review any determination that litigation is abusive and any award of attorney fees under the Kansas rules of professional conduct to determine the reasonableness of the award before issuing a judgment. The results obtained in the litigation alleging a website access violation shall be weighed heavily, particularly if the litigation was resolved in favor of the plaintiff.

(f) As used in this section:

(1) “Access violation” means any allegation that a public accommodation does not provide sufficient access under the federal Americans with disabilities act, chapter 39, 44 or 58 of the Kansas Statutes Annotated, and amendments thereto, or any other similar allegation under state or federal law;

(2) “public accommodation” means the same as defined in 42 U.S.C. § 2000 et seq. For the purposes of this section, “public accommodation” includes a website operated by a resident of this state; and

(3) “resident of this state” means any person residing in Kansas and any entity that has filed with the Kansas secretary of state’s office pursuant to chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(g) If the federal department of justice issues standards concerning website accessibility under title III of the federal Americans with disabilities act, the attorney general shall certify to the secretary of state that such standards have been issued. Upon receipt of such certification, the secretary of state shall cause a notice of such certification to be published in the Kansas register. The provisions of this section shall expire on the date such certification is published in the Kansas register.

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

Approved April 17, 2023.

Published in the *Kansas Register* April 20, 2023.

CHAPTER 28

Senate Substitute for HOUSE BILL No. 2127

AN ACT concerning childhood sexual abuse; permitting a prosecution for childhood sexual abuse to be commenced at any time; providing exceptions in the Kansas tort claims act for claims arising from childhood sexual abuse; extending the time to file civil actions for recovery of damages caused by childhood sexual abuse; amending K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp. 21-5107 and 60-523 and repealing the existing sections.

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

Section 1. K.S.A. 12-105b is hereby amended to read as follows: 12-105b. (a) All claims against a municipality must be presented in writing with a full account of the items, and no claim shall be allowed except in accordance with the provisions of this section. A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information.

(b) (1) Claims for salaries or wages of officers or employees need not be signed by the officer or employee if a payroll claim is certified by the administrative head of a department or group of officers or employees or an authorized representative that the salaries or wages stated therein were contracted or incurred for the municipality under authority of law, that the amounts claimed are correct, due and unpaid and that the amounts are due as salaries and wages for services performed by the person named.

(2) Nothing in this subsection shall be construed as prohibiting the payment of employment incentive or retention bonuses authorized by K.S.A. 72-2244, and amendments thereto.

(c) No costs shall be recovered against a municipality or against an employee of a municipality in any action brought against the municipality or an employee of a municipality for any claims allowed in part unless the recovery shall be for a greater sum than the amount allowed, with the interest due. Subject to the terms of applicable insurance contracts, judgments and settlements obtained for claims recoverable pursuant to the Kansas tort claims act shall be presented for payment in accordance with this section or in such manner as the governing body may designate.

(d) (1) *Except as provided in paragraph (2)*, any person having a claim against a municipality or against an employee of a municipality which could give rise to an action brought under the Kansas tort claims act shall file a written notice as provided in this subsection before commencing such action. The notice shall be filed with the clerk or governing body of the municipality and shall contain the following: ~~(1)(A)~~ The name and address of the claimant and the name and address of the claimant's attorney, if any; ~~(2)(B)~~ a concise statement of the factual basis of the claim,

including the date, time, place and circumstances of the act, omission or event complained of; ~~(3)~~(C) the name and address of any public officer or employee involved, if known; ~~(4)~~(D) a concise statement of the nature and the extent of the injury claimed to have been suffered; and ~~(5)~~(E) a statement of the amount of monetary damages that is being requested. In the filing of a notice of claim, substantial compliance with the provisions and requirements of this subsection shall constitute valid filing of a claim. The contents of such notice shall not be admissible in any subsequent action arising out of the claim. Once notice of the claim is filed, no action shall be commenced until after the claimant has received notice from the municipality that it has denied the claim or until after 120 days has passed following the filing of the notice of claim, whichever occurs first. A claim is deemed denied if the municipality fails to approve the claim in its entirety within 120 days unless the interested parties have reached a settlement before the expiration of that period. No person may initiate an action against a municipality or against an employee of a municipality unless the claim has been denied in whole or part. Any action brought pursuant to the Kansas tort claims act shall be commenced within the time period provided for in the code of civil procedure or it shall be forever barred, except that, a claimant shall have no less than 90 days from the date the claim is denied or deemed denied in which to commence an action.

(2) *This subsection shall not apply to any claim for recovery of damages against a governmental entity arising from childhood sexual abuse as defined in K.S.A. 60-523, and amendments thereto.*

(e) Claims against a municipality ~~which~~ that provide for a discount for early payment or for the assessment of a penalty for late payment may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body in order for the municipality to benefit from the discount provided for early payment or to avoid assessment of the penalty for late payment. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(f) When an employee is required to travel on behalf of a municipality, the employee shall be entitled, upon complying with the provisions of

the municipality's policies and regulations on employee travel, to timely payment of subsistence allowances and reimbursement for transportation and other related travel expenses incurred by the employee while on an approved travel status. When reimbursement through the regular claims approval process of the municipality will require more than 15 days from the date the reimbursement claim is filed, the claim may be authorized to be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the municipality in advance of its presentation to and approval by the governing body if payment of the amount of such claim is required before the next scheduled regular meeting of the governing body. Any officer or employee authorized to pay claims under this subsection shall keep an accurate record of all moneys paid and the purpose for which expended, and shall submit the record to the governing body at the next meeting thereof. Payments of claims by an officer or employee of the municipality under authority of this subsection are valid to the same extent as if the claims had been approved and ordered to be paid by the governing body.

(g) Claims submitted by members of a municipality's self-insured health plan may be authorized to be paid in advance of approval thereof by the governing body. Such claims shall be submitted to the administrative officer of such insurance plan.

(h) Claims against a school district for the purchase of food or gasoline while students are on a co-curricular or extra-curricular activity outside of the school boundaries may be paid in advance of approval thereof by the governing body in accordance with the provisions of this subsection. The governing body may designate and authorize one or more of its officers or employees to pay any such claim made against the school district in advance of its presentation to and approval by the governing body.

(i) Except as otherwise provided, before any claim is presented to the governing body or before any claim is paid by any officer or employee of the municipality under subsection (e) or (f), it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting the area of government concerned in the claim, and thereby approved in whole or in part as correct, due and unpaid.

Sec. 2. K.S.A. 2022 Supp. 21-5107 is hereby amended to read as follows: 21-5107. (a) *(1) A prosecution for any of the following crimes may be commenced at any time:*

(A) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto;

(B) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2022 Supp. 21-5504(b), and amendments thereto;

(C) murder, as described in K.S.A. 21-3401, 21-3402 or 21-3439, prior to their repeal, or K.S.A. 2022 Supp. 21-5401, 21-5402 or 21-5403, and amendments thereto;

(D) terrorism as defined in K.S.A. 21-3449, prior to its repeal, or K.S.A. 2022 Supp. 21-5421, and amendments thereto; or

(E) illegal use of weapons of mass destruction ~~may be commenced at any time~~ as defined in K.S.A. 21-3450, prior to its repeal, or K.S.A. 2022 Supp. 21-5422, and amendments thereto.

(2) A prosecution for childhood sexual abuse may be commenced at any time. As used in this paragraph, "childhood sexual abuse" means any of the following crimes when the victim is under 18 years of age:

(A) Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;

(B) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2022 Supp. 21-5506(b), and amendments thereto;

(C) criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)(3), prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and amendments thereto;

(D) enticement of a child as defined in K.S.A. 21-3509, prior to its repeal;

(E) indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(a), and amendments thereto;

(F) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2022 Supp. 21-5508(b), and amendments thereto;

(G) sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

(H) aggravated sexual battery as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;

(I) aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2022 Supp. 21-5604(b), and amendments thereto;

(J) aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;

(K) internet trading in child pornography or aggravated internet trading in child pornography as defined in K.S.A. 2022 Supp. 21-5514, and amendments thereto; or

(L) commercial sexual exploitation of a child as defined in K.S.A. 2022 Supp. 21-6422, and amendments thereto.

(b) Except as provided in subsection (e), a prosecution for any crime shall be commenced within 10 years after its commission if the victim is the Kansas public employees retirement system.

(c) Except as provided in ~~subsection~~ *subsections (a) and (e)*, a prosecution for a sexually violent crime as defined in K.S.A. 22-3717, and amendments thereto:

(1) When the victim is 18 years of age or older shall be commenced within 10 years or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later; or

(2) when the victim is under 18 years of age shall be commenced within 10 years of the date the victim turns 18 years of age or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

(d) Except as provided ~~by~~ *in* subsection (e), a prosecution for any crime, as defined in K.S.A. 2022 Supp. 21-5102, and amendments thereto, not governed by subsection (a), (b) or (c) shall be commenced within five years after it is committed.

(e) The period within which a prosecution shall be commenced shall not include any period in which:

(1) The accused is absent from the state;

(2) the accused is concealed within the state so that process cannot be served upon the accused;

(3) the fact of the crime is concealed;

(4) a prosecution is pending against the defendant for the same conduct, even if the indictment or information which commences the prosecution is quashed or the proceedings thereon are set aside, or are reversed on appeal;

(5) an administrative agency is restrained by court order from investigating or otherwise proceeding on a matter before it as to any criminal conduct defined as a violation of any of the provisions of article 41 of chapter 25 and article 2 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, which may be discovered as a result thereof regardless of who obtains the order of restraint; or

(6) whether the fact of the crime is concealed by the active act or conduct of the accused, there is substantially competent evidence to believe two or more of the following factors are present:

(A) The victim was a child under 15 years of age at the time of the crime;

(B) the victim was of such age or intelligence that the victim was unable to determine that the acts constituted a crime;

(C) the victim was prevented by a parent or other legal authority from making known to law enforcement authorities the fact of the crime whether or not the parent or other legal authority is the accused; and

(D) there is substantially competent expert testimony indicating the victim psychologically repressed such ~~witness~~ *victim's* memory of the fact of the crime, and in the expert's professional opinion the recall of such

memory is accurate and free of undue manipulation, and substantial corroborating evidence can be produced in support of the allegations contained in the complaint or information but in no event may a prosecution be commenced as provided in subsection (e)(6) later than the date the victim turns 28 years of age. Corroborating evidence may include, but is not limited to, evidence the defendant committed similar acts against other persons or evidence of contemporaneous physical manifestations of the crime.

(f) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing offense plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(g) A prosecution is commenced when a complaint or information is filed, or an indictment returned, and a warrant thereon is delivered to the sheriff or other officer for execution. No such prosecution shall be deemed to have been commenced if the warrant so issued is not executed without unreasonable delay.

(h) As used in this section, "parent or other legal authority" shall include, but not be limited to, natural and stepparents, grandparents, aunts, uncles or siblings.

Sec. 3. K.S.A. 2022 Supp. 60-523 is hereby amended to read as follows: 60-523. (a) No action for recovery of damages *for an injury or illness* suffered as a result of childhood sexual abuse shall be commenced more than ~~three~~ 13 years after the date the ~~person~~ *victim* attains 18 years of age or more than three years ~~from after the date the person discovers or reasonably should have discovered that the injury or illness was caused by a criminal conviction for a crime described in subsection (b) related to such childhood sexual abuse, whichever occurs later.~~

(b) As used in this section:

(1) "Injury or illness" includes psychological injury or illness, whether or not accompanied by physical injury or illness.

(2) "Childhood sexual abuse" ~~includes~~ *means* any act committed against the person ~~which act that~~ occurred when the person was under the age of 18 years and ~~which act that~~ would have been a violation of any of the following:

(A) *Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2022 Supp. 21-5503, and amendments thereto;*

(B) *Indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2022 Supp. 21-5506(a), and amendments thereto;*

~~(B)(C)~~ *aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2022 Supp. 21-5506(b), and amendments thereto;*

~~(C)~~(D) *criminal sodomy as defined in K.S.A. 21-3505(a)(2) and (a)(3), prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) and (a)(4), and amendments thereto;*

(E) *aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or ~~subsection (b) of K.S.A. 2022 Supp. 21-5504(b)~~, and amendments thereto;*

~~(D)~~(F) *enticement of a child as defined in K.S.A. 21-3509, prior to its repeal;*

~~(E)~~(G) *indecent solicitation of a child as defined in K.S.A. 21-3510, prior to its repeal, or ~~subsection (a) of K.S.A. 2022 Supp. 21-5508(a)~~, and amendments thereto;*

~~(F)~~(H) *aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, prior to its repeal, or ~~subsection (b) of K.S.A. 2022 Supp. 21-5508(b)~~, and amendments thereto;*

~~(G)~~(I) *sexual exploitation of a child as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto; ~~or~~*

~~(H)~~(J) *aggravated sexual battery as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2022 Supp. 21-5505(b), and amendments thereto;*

(K) *aggravated incest as defined in K.S.A. 21-3603, prior to its repeal, or ~~subsection (b) of K.S.A. 2022 Supp. 21-5604(b)~~, and amendments thereto;*

(L) *aggravated human trafficking as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the defendant or another;*

(M) *internet trading in child pornography or aggravated internet trading in child pornography as defined in K.S.A. 2022 Supp. 21-5514, and amendments thereto;*

(N) *commercial sexual exploitation of a child as defined in K.S.A. 2022 Supp. 21-6422, and amendments thereto; or*

(O) *any prior laws of this state of similar effect at the time the act was committed.*

(c)—~~Discovery that the injury or illness was caused by childhood sexual abuse shall not be deemed to have occurred solely by virtue of the person's awareness, knowledge or memory of the acts of abuse. The person need not establish which act in a series of continuing sexual abuse incidents caused the injury or illness complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is a part of a common scheme or plan of sexual abuse.~~

~~(d)~~ This section shall be applicable to:

(1)—~~any action commenced on or after July 1, 1992, including any action which that would be barred by application of the period of limitation applicable prior to July 1, 1992;~~

~~(2) any action commenced prior to July 1, 1992, and pending on July 1, 1992.~~

Sec. 4. K.S.A. 75-6104 is hereby amended to read as follows: 75-6104.

(a) A governmental entity or an employee acting within the scope of the employee's employment shall not be liable for damages resulting from:

~~(a)(1)~~ Legislative functions, including, but not limited to, the adoption or failure to adopt any statute, regulation, ordinance or resolution;

~~(b)(2)~~ judicial function;

~~(c)(3)~~ enforcement of or failure to enforce a law, whether valid or invalid, including, but not limited to, any statute, rule and regulation, ordinance or resolution;

~~(d)(4)~~ adoption or enforcement of, or failure to adopt or enforce, any written personnel policy which protects persons' health or safety unless a duty of care, independent of such policy, is owed to the specific individual injured, except that the finder of fact may consider the failure to comply with any written personnel policy in determining the question of negligence;

~~(e)(5)~~ any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee, whether or not the discretion is abused and regardless of the level of discretion involved;

~~(f)(6)~~ the assessment or collection of taxes or special assessments;

~~(g)(7)~~ any claim by an employee of a governmental entity arising from the tortious conduct of another employee of the same governmental entity, if such claim is:

~~(1)(A)~~ Compensable pursuant to the Kansas workers compensation act; or

~~(2)(B)~~ not compensable pursuant to the Kansas workers compensation act because the injured employee was a firemen's relief association member who was exempt from such act pursuant to K.S.A. 44-505d, and amendments thereto, at the time the claim arose;

~~(h)(8)~~ the malfunction, destruction or unauthorized removal of any traffic or road sign, signal or warning device unless it is not corrected by the governmental entity responsible within a reasonable time after actual or constructive notice of such malfunction, destruction or removal. Nothing herein shall give rise to liability arising from the act or omission of any governmental entity in placing or removing any of the above signs, signals or warning devices when such placement or removal is the result of a discretionary act of the governmental entity;

~~(i)(9)~~ any claim which is limited or barred by any other law or which is for injuries or property damage against an officer, employee or agent where the individual is immune from suit or damages;

~~(j)(10)~~ any claim based upon emergency management activities, ex-

cept that governmental entities shall be liable for claims to the extent provided in article 9 of chapter 48 of the Kansas Statutes Annotated, *and amendments thereto*;

~~(k)~~(11) the failure to make an inspection, or making an inadequate or negligent inspection, of any property other than the property of the governmental entity, to determine whether the property complies with or violates any law or rule and regulation or contains a hazard to public health or safety;

~~(l)~~(12) snow or ice conditions or other temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of the governmental entity;

~~(m)~~(13) the plan or design for the construction of or an improvement to public property, either in its original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the governmental entity or some other body or employee exercising discretionary authority to give such approval and if the plan or design was prepared in conformity with the generally recognized and prevailing standards in existence at the time such plan or design was prepared;

~~(n)~~(14) failure to provide, or the method of providing, police or fire protection;

~~(o)~~(15) any claim for injuries resulting from the use of any public property intended or permitted to be used as a park, playground or open area for recreational purposes, unless:

(A) The governmental entity or an employee thereof is guilty of gross and wanton negligence proximately causing such injury; *or*

(B) *an employee of the governmental entity commits childhood sexual abuse as defined in K.S.A. 60-523, and amendments thereto*;

~~(p)~~(16) the natural condition of any unimproved public property of the governmental entity;

~~(q)~~(17) any claim for injuries resulting from the use or maintenance of a public cemetery owned and operated by a municipality or an abandoned cemetery, title to which has vested in a governmental entity pursuant to K.S.A. 17-1366 through 17-1368, and amendments thereto, unless the governmental entity or an employee thereof is guilty of gross and wanton negligence proximately causing the injury;

~~(r)~~(18) the existence, in any condition, of a minimum maintenance road, after being properly so declared and signed as provided in K.S.A. 68-5,102, and amendments thereto;

~~(s)~~(19) any claim for damages arising from the operation of vending machines authorized pursuant to K.S.A. 68-432 or ~~K.S.A. 75-3343a~~, and amendments thereto;

(t)(20) providing, distributing or selling information from geographic information systems which includes an entire formula, pattern, compilation, program, device, method, technique, process, digital database or system which electronically records, stores, reproduces and manipulates by computer geographic and factual information which has been developed internally or provided from other sources and compiled for use by a public agency, either alone or in cooperation with other public or private entities;

(u)(21) any claim arising from providing a juvenile justice program to juvenile offenders, if such juvenile justice program has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice. The provisions of this section do not apply to community service work within the scope of K.S.A. 60-3614, and amendments thereto, *or to claims arising from childhood sexual abuse as defined in K.S.A. 60-523, and amendments thereto*;

(v)(22) performance of, or failure to perform, any activity pursuant to K.S.A. 74-8922, and amendments thereto, including, but not limited to, issuance and enforcement of a consent decree agreement, oversight of contaminant remediation and taking title to any or all of the federal enclave described in such statute;

(w)(23) any claim arising from the making of a donation of used or excess fire control, fire rescue, or emergency medical services equipment to a fire department, fire district, volunteer fire department, medical emergency response team or the Kansas forest service if at the time of making the donation the donor believes that the equipment is serviceable or may be made serviceable. This subsection also applies to equipment that is acquired through the federal excess personal property program established by the federal property and administrative services act of 1949 (~~P.L. 81-152; 63 stat. 377; 40 United States Code Section, 40 U.S.C. § 483~~). This subsection shall apply to any breathing apparatus or any mechanical or electrical device which functions to monitor, evaluate, or restore basic life functions, only if it is recertified to the manufacturer's specifications by a technician certified by the manufacturer; or

(x)(24) any claim arising from the acceptance of a donation of fire control, fire rescue or emergency medical services equipment, if at the time of the donation the donee reasonably believes that the equipment is serviceable or may be made serviceable and if after placing the donated equipment into service, the donee maintains the donated equipment in a safe and serviceable manner.

(b) The enumeration of exceptions to liability in this section shall not be construed to be exclusive nor as legislative intent to waive immunity from liability in the performance or failure to perform any other act or function of a discretionary nature.

(c) The exceptions to liability in subsections (a)(1) through (a)(4) shall not be construed to preclude, prohibit or otherwise limit a claim for damages arising from childhood sexual abuse as defined in K.S.A. 60-523, and amendments thereto. Failure of a governmental entity to adopt or enforce a policy, regulation or law related to childhood sexual abuse and failure to exercise reasonable discretion in the supervision of a governmental employee who commits childhood sexual abuse may be considered by the trier of fact in determining the question of a governmental entity's negligence.

Sec. 5. K.S.A. 75-6105 is hereby amended to read as follows: 75-6105. (a) Subject to the provisions of K.S.A. 75-6111, and amendments thereto, the liability for claims within the scope of this act shall not exceed \$500,000 for any number of claims arising out of a single occurrence or accident.

(b) When the amount awarded to or settled upon multiple claimants exceeds the limitations of this section, any party may apply to the district court which has jurisdiction of the cause to apportion to each claimant the proper share of the total amount limited ~~herein~~ *by this section*. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement made to the claimant bears to the aggregate awards and settlements for all claims arising out of the occurrence or accident.

(c) A governmental entity shall not be liable for punitive or exemplary damages or for interest prior to judgment. An employee acting within the scope of the employee's employment shall not be liable for punitive or exemplary damages or for interest prior to judgment, except for any act or omission of the employee because of actual fraud or actual malice.

(d) This section shall not apply to any claim for recovery of damages against a governmental entity arising from childhood sexual abuse as defined in K.S.A. 60-523, and amendments thereto.

Sec. 6. K.S.A. 12-105b, 75-6104 and 75-6105 and K.S.A. 2022 Supp. 21-5107 and 60-523 are hereby repealed.

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

Approved April 17, 2023.

CHAPTER 29

HOUSE BILL No. 2323

AN ACT concerning fire districts; relating to fire districts located in Johnson county; providing for the detachment and transfer of property thereof annexed by a city; amending K.S.A. 2022 Supp. 19-3623f and repealing the existing section.

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

Section 1. K.S.A. 2022 Supp. 19-3623f is hereby amended to read as follows: 19-3623f. (a) If any land included in a fire district created under the provisions of K.S.A. 19-3613, and amendments thereto, is thereafter annexed by any city, such land shall continue to be within and a part of the fire district ~~unless~~ *until an agreement transferring such land is approved pursuant to this section or, except as otherwise provided, one year from the effective date of such annexation, whichever occurs first. The city shall notify the fire district of such annexation by certified mail within 10 days of the effective date of such annexation. If such notice is not mailed by certified mail within the prescribed time period, the land annexed by such city shall continue to be within and a part of the fire district until an agreement transferring such land is approved pursuant to this section or one year from the date that such notice is mailed.* The governing bodies of the city and fire district shall negotiate an agreement providing for the transfer of such land to the city. Such negotiations may include the transfer of other property of the fire district and the payment of compensation therefor. Any such agreement shall be submitted to and approved by the board of county commissioners, and thereupon such land shall be detached from the fire district and any other property to be transferred to the city under the agreement shall be transferred. *Ownership of any property of the fire district, including, but not limited to, any land and any structures, fixtures, vehicles, equipment or other tangible personal property located on such land shall only be transferred to such city in accordance with a written agreement executed by the fire district. If no agreement is submitted to the board of county commissioners within one year from the effective date of such annexation or, if applicable, one year from the date that notice of such annexation was mailed to the fire district, then, upon the filing of notice with the county clerk by the city clerk that no such agreement has been submitted, such land shall be detached from the fire district and transferred to the city for purposes of providing fire services. Such detachment and transfer shall be effective for purposes of taxation on January 1 of the immediately succeeding year.*

(b) When the land annexed to such city is detached and excluded from such district the governing body of the fire district shall redefine the new boundaries of the fire district to exclude the land so detached. All general

obligation bonds issued for the acquisition or construction of fire stations or buildings, the acquisition of sites therefor and the purchase of fire fighting equipment by a fire district which are issued prior to the detachment of such land shall continue as an obligation of the property subject to taxation for the payment thereof at the time such bonds were issued.

Sec. 2. K.S.A. 2022 Supp. 19-3623f is hereby repealed.

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

Approved April 17, 2023.

CHAPTER 30

HOUSE BILL No. 2160

AN ACT concerning traffic regulations; relating to the secured loading of vehicles; exempting the transport of cotton bales from the secured load requirements under certain conditions; amending K.S.A. 8-1906 and repealing the existing section.

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

Section 1. K.S.A. 8-1906 is hereby amended to read as follows: 8-1906.
(a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that:

(1) This section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations; and

(2) (A) subsections (a) and (c) shall not apply to:

(i) Trailers or semitrailers when hauling livestock if such trailers or semitrailers are properly equipped with a cleanout trap and such trap is operated in a closed position unless material is intentionally spilled when the trap is in a closed position; ~~or~~

(ii) trucks, trailers or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The provisions of this clause shall not apply to trucks, trailers or semitrailers hauling:

(a) Hay bales; or

(b) other packaged or bundled forage commodities; or

(iii) *trucks, trailers or semitrailers when hauling cotton bales transported by the producer intrastate from the place of production or storage to a market, place of storage or place of use if:*

(a) *Cotton bales are fully loaded from front to back on such truck, trailer or semitrailer in a single layer;*

(b) *the truck, trailer or semitrailer is equipped with cradles; and*

(c) *the truck, trailer or semitrailer is equipped with stakes, side boards or side posts that are not less than 12 inches high.*

(B) Paragraph (2)(A)(i) shall not apply to trailers or semitrailers used for hauling livestock when livestock are not being hauled in such trailers or semitrailers.

(b) All trailers or semitrailers used for hauling livestock shall be cleaned out periodically.

(c) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.

Sec. 2. K.S.A. 8-1906 is hereby repealed.

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

Approved April 17, 2023.

CHAPTER 31

HOUSE BILL No. 2326

AN ACT concerning consumer protection; relating to the scrap metal theft reduction act; clarifying that catalytic converters are regulated scrap metal; providing that certain purchases of catalytic converters and by-products or dust are unlawful under the act; extending the expiration date of the act; amending K.S.A. 2022 Supp. 50-6,109, 50-6,111 and 50-6,112d and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 50-6,109 is hereby amended to read as follows: 50-6,109. (a) K.S.A. 2022 Supp. 50-6,109 through ~~50-6,112e~~ 50-6,112d, and amendments thereto, shall be known and may be cited as the scrap metal theft reduction act.

(b) As used in the scrap metal theft reduction act:

(1) “Scrap metal dealer” means any individual, firm, company, partnership, association or corporation that operates a business that is engaged in the business of buying, trading or dealing in regulated scrap metal for the purpose of sale for recycling.

(2) (A) “Regulated scrap metal” means any item, in any form, for which the purchase price described in K.S.A. 2022 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content of:

~~(A)~~(i) Aluminum, except that aluminum shall not include food or beverage containers;

~~(B)~~(ii) copper;

~~(C)~~(iii) brass;

~~(D)~~(iv) bronze;

~~(E)~~(v) stainless steel;

~~(F)~~(vi) zinc;

~~(G)~~(vii) titanium;

~~(H)~~(viii) tungsten;

~~(I)~~(ix) nickel;

~~(J)~~(x) platinum;

~~(K)~~(xi) palladium;

~~(L)~~(xii) rhodium;

~~(M)~~(xiii) magnesium;

~~(N)~~(xiv) lead;

~~(O)~~(xv) any other nonferrous metal; or

~~(P)~~(xvi) any combination of nonferrous metals listed in ~~subsections~~

~~(b)(2)(A) through (b)(2)(P) this subparagraph.~~

(B) “Regulated scrap metal” includes catalytic converters.

(3) “Bales of regulated metal” means regulated scrap metal property processed with professional recycling equipment by compression, shear-

ing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(4) “Junk vehicle” means a vehicle as defined in K.S.A. 8-126, and amendments thereto, not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, an aircraft or a boat which is being sold for scrap value.

(5) “Nonferrous metal” means a metal that does not contain iron or steel.

(6) “Vehicle part” means:

(A) The front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or

(B) the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit.

(7) “Person” means any individual, scrap metal dealer, manager or employee, owner, operator, corporation, partnership or association.

(8) “Attorney general” means the attorney general of the state of Kansas or the attorney general’s designee.

(9) *“Catalytic converters” means a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.*

Sec. 2. K.S.A. 2022 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2022 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2022 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of the scrap metal theft reduction act shall be open at all times to law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2022 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:

(1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and

(2) obtaining an appropriate bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

(c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

(d) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item on behalf of the governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business; or scrap metal dealer:

- (1) Utility access cover;
- (2) street light poles or fixtures;
- (3) road or bridge guard rails;
- (4) highway or street sign;
- (5) water meter cover;
- (6) traffic directional or traffic control signs;
- (7) traffic light signals;
- (8) any metal marked with any form of the name or initials of a governmental entity;
- (9) property owned and marked by a telephone, cable, electric, water or other utility provider;
- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs;
- (19) bleachers or risers, in whole or in part;
- (20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge; ~~and~~
- (21) burnt wire;
- (22) *any catalytic converter that has:*
 - (A) *A defaced identification mark or owner-applied paint or identification number; or*
 - (B) *been intentionally altered by removing or obliterating the make, model or manufacturer's number; and*
- (23) *any by-product or dust containing platinum, palladium or rhodium.*

(e) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

Sec. 3. K.S.A. 2022 Supp. 50-6,112d is hereby amended to read as follows: 50-6,112d. ~~(a)~~ The provisions of the scrap metal theft reduction act shall expire on July 1, ~~2023~~ 2028.

~~(b) This section shall be a part of and supplemental to the scrap metal theft reduction act.~~

Sec. 4. K.S.A. 2022 Supp. 50-6,109, 50-6,111 and 50-6,112d are hereby repealed.

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

Approved April 17, 2023.

CHAPTER 32

HOUSE BILL No. 2214

AN ACT concerning the department of corrections; relating to facilities; changing the name of the Larned correctional mental health facility to the Larned state correctional facility; removing references to facilities that no longer exist; amending K.S.A. 75-5202 and K.S.A. 2022 Supp. 75-52,167 and repealing the existing sections.

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

Section 1. K.S.A. 75-5202 is hereby amended to read as follows: 75-5202. As used in K.S.A. 75-5201 et seq., and amendments thereto, unless the context clearly requires otherwise:

- (a) “Secretary” means the secretary of corrections.
- (b) “Prisoner review board” means the prisoner review board established by K.S.A. 75-52,152, and amendments thereto.
- (c) “Inmate” means any person incarcerated in any correctional institution of the state of Kansas.
- (d) “Correctional institution” means the Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility, Norton correctional facility, Ellsworth correctional facility, Winfield correctional facility, ~~Osawatomie correctional facility~~, Larned *state* correctional mental health facility, ~~Toronto correctional work facility~~, Stockton correctional facility, Wichita work release facility, El Dorado correctional facility, *any juvenile correctional facility or institution as defined in K.S.A. 38-2302, and amendments thereto*, and any other correctional institution established by the state for the confinement of *adult or juvenile* offenders under the control of the secretary of corrections.
- (e) “Warden” means the person in charge of the operation and supervision of a correctional institution.
- (f) “Corrections officer” means a full-time, salaried officer or employee under the jurisdiction of the secretary, whose duties include the receipt, custody, control, maintenance, discipline, security and apprehension of persons convicted of criminal offense in this state and sentenced to a term of imprisonment under the custody of the secretary.
- (g) “Parole officer” means a full-time salaried officer or employee under the jurisdiction of the secretary whose duties include:
 - (1) Investigation, supervision, arrest and control of persons on parole or postrelease supervision and the enforcement of the conditions of parole or postrelease supervision; and
 - (2) ~~services which~~ *that* relate to probationers, parolees or persons on postrelease supervision and are required by the uniform act for out-of-state parolee supervision.

Sec. 2. K.S.A. 2022 Supp. 75-52,167 is hereby amended to read as follows: 75-52,167. As used in K.S.A. 75-3739, and amendments there-

to, and K.S.A. 2022 Supp. 75-52,167 through 75-52,171, and amendments thereto:

(a) “Private entity” means any partnership, firm, association, corporation, sole proprietorship or other business organization, whether organized for profit or not-for-profit and includes any faith-based organization.

(b) “Secretary” means the secretary of corrections.

(c) “Public-private partnership” means the relationship established between the department of corrections and a private entity by contracting for the performance of any combination of specified functions or responsibilities to develop, finance, construct or renovate a building at a correctional institution where the department of corrections cost for development, finance, construction or renovation of such building does not exceed 25% of the total cost of the developing, financing, constructing or renovating such building.

(d) “Correctional institution” means the ~~Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility, Norton correctional facility, Ellsworth correctional facility, Winfield correctional facility, Osawatomic correctional facility, Lamed correctional mental health facility, Toronto correctional work facility, Stockton correctional facility, Wichita work release facility, El Dorado correctional facility, any juvenile correctional facility or institution as defined in K.S.A. 38-2302, and amendments thereto, and any other correctional institution established by the state for the confinement of adult or juvenile offenders under control of the secretary~~ *same as defined in K.S.A. 75-5202, and amendments thereto.*

(e) “Public-private project” means the project to develop, finance, construct or renovate a building at a correctional institution pursuant to a public-private partnership.

(f) “Faith-based organization” means any religious, charitable ~~and or~~ other organization ~~as defined by~~ *described in* article 17 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, or any other organization whose values are based on faith and beliefs, or both, that has a mission based on social values of the particular faith and whose members are from a particular faith group.

(g) “Spiritual needs” means any program or service that addresses any issue related to sincerely held religious beliefs.

Sec. 3. K.S.A. 75-5202 and K.S.A. 2022 Supp. 75-52,167 are hereby repealed.

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

Approved April 18, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 33

HOUSE BILL No. 2322

AN ACT concerning education; relating to exceptional children; revising the definition of “children with disabilities” to replace emotional disturbance with emotional disability and include dyslexia; amending K.S.A. 2022 Supp. 72-3404 and 75-5399 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 72-3404 is hereby amended to read as follows: 72-3404. As used in this act:

- (a) “School district” means any public school district.
- (b) “Board” means the board of education of any school district.
- (c) “State board” means the state board of education.
- (d) “Department” means the state department of education.
- (e) “State institution” means any institution under the jurisdiction of a state agency.
- (f) “State agency” means the Kansas department for children and families, the Kansas department for aging and disability services, the department of corrections and the juvenile justice authority.
- (g) “Exceptional children” means persons who are children with disabilities or gifted children and are school age, to be determined in accordance with rules and regulations adopted by the state board, whose age may differ from the ages of children required to attend school under the provisions of K.S.A. 72-3120, and amendments thereto.
- (h) “Gifted children” means exceptional children who are determined to be within the gifted category of exceptionality as such category is defined by the state board.
- (i) “Special education” means specially designed instruction provided at no cost to parents to meet the unique needs of an exceptional child, including:
 - (1) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (2) instruction in physical education.
- (j) “Special teacher” means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is qualified to:
 - (1) Provide special education or related services to exceptional children as determined pursuant to standards established by the state board; or
 - (2) assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.
- (k) “State plan” means the state plan for special education and related services authorized by this act.

- (l) “Agency” means boards and the state agencies.
- (m) “Parent” means:
 - (1) A natural parent;
 - (2) an adoptive parent;
 - (3) a person acting as parent;
 - (4) a legal guardian;
 - (5) an education advocate; or
 - (6) a foster parent, if the foster parent has been appointed the education advocate of an exceptional child.
- (n) “Person acting as parent” means a person such as a grandparent, stepparent or other relative with whom a child lives or a person other than a parent who is legally responsible for the welfare of a child.
- (o) “Education advocate” means a person appointed by the state board in accordance with the provisions of K.S.A. 38-2218, and amendments thereto. A person appointed as an education advocate for a child shall not be:
 - (1) An employee of the agency who is required by law to provide special education or related services for the child;
 - (2) an employee of the state board, the department, or any agency that is directly involved in providing educational services for the child; or
 - (3) any person having a professional or personal interest that would conflict with the interests of the child.
- (p) “Free appropriate public education” means special education and related services that:
 - (1) Are provided at public expense, under public supervision and direction, and without charge;
 - (2) meet the standards of the state board;
 - (3) include an appropriate preschool, elementary or secondary school education; and
 - (4) are provided in conformity with an individualized education program.
- (q) “Federal law” means the individuals with disabilities education act, as amended.
- (r) “Individualized education program” or “IEP” means a written statement for each exceptional child that is developed, reviewed, and revised in accordance with the provisions of K.S.A. 72-3429, and amendments thereto.
- (s) (1) “Related services” means transportation, and such developmental, corrective, and other supportive services, including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the child’s IEP, counseling services, including rehabilita-

tion counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only, as may be required to assist an exceptional child to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(2) “Related services” ~~shall~~ *does* not mean any medical device that is surgically implanted or the replacement of any such device.

(t) “Supplementary aids and services” means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

(u) “Individualized education program team” or “IEP team” means a group of individuals composed of:

- (1) The parents of a child;
- (2) at least one regular education teacher of the child if the child is, or may be, participating in the regular education environment;
- (3) at least one special education teacher or, where appropriate, at least one special education provider of the child;
- (4) a representative of the agency directly involved in providing educational services for the child who is:

(A) Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of exceptional children;

(B) knowledgeable about the general curriculum; and

(C) knowledgeable about the availability of resources of the agency;

(5) an individual who can interpret the instructional implications of evaluation results;

(6) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) whenever appropriate, the child.

(v) “Evaluation” means a multisourced and multidisciplinary examination, conducted in accordance with the provisions of K.S.A. 72-3428, and amendments thereto, to determine whether a child is an exceptional child.

(w) “Independent educational evaluation” means an examination that is obtained by the parent of an exceptional child and performed by an individual or group of individuals who meet state and local standards to conduct such an examination.

(x) “Elementary school” means any nonprofit institutional day or residential school that offers instruction in any or all of the grades kindergarten through nine.

(y) “Secondary school” means any nonprofit institutional day or residential school that offers instruction in any or all of the grades nine through 12.

(z) “Children with disabilities” means children who:

(1) Have an intellectual disability, hearing loss including deafness, speech or language disorders, visual impairments including blindness, emotional disturbance *disability*, orthopedic impairments, autism, *dyslexia*, traumatic brain injury, other health impairments, or specific learning disabilities and who, by reason thereof, need special education and related services; and

(2) are experiencing one or more developmental delays and, by reason thereof, need special education and related services if such children are ages three through nine.

(aa) “Substantial change in placement” means the movement of an exceptional child, for more than 25% of the child’s school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

(bb) “Material change in services” means an increase or decrease of 25% or more of the duration or frequency of a special education service, a related service or a supplementary aid or a service specified on the IEP of an exceptional child.

(cc) “Developmental delay” means such a deviation from average development in one or more of the following developmental areas, as determined by appropriate diagnostic instruments and procedures, as indicates that special education and related services are required:

- (1) Physical;
- (2) cognitive;
- (3) adaptive behavior;
- (4) communication; or
- (5) social or emotional development.

(dd) “Homeless children” means “homeless children and youths” as defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C. § 11434a.

(ee) “Limited English proficient” means an individual who meets the qualifications specified in section 9101 of the federal elementary and secondary education act of 1965, as amended.

(ff) “*Emotional disability*” means the same as the term “*emotional disturbance*” is used in public law 101-476, the individuals with disabilities education act.

Sec. 2. K.S.A. 2022 Supp. 75-5399 is hereby amended to read as follows: 75-5399. As used in this act:

(a) “Individuals with disabilities” means individuals with intellectual disability, hearing loss including deafness, speech or language disorders, visual impairments including blindness, serious emotional disturbance *disability*, orthopedic impairments, autism, *dyslexia*, traumatic brain injury, other health impairments or specific learning disabilities.

(b) “Transition services” means a coordinated set of activities for a student, designed within an outcome-oriented process, ~~which~~ *that* promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment, including supported employment, continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based upon the individual student’s needs, taking into account the student’s preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(c) “Transition planning services” means rehabilitation counseling, information and referral to community services for students age 16 and older in secondary special education programs.

(d) “Local education authority” means the special education interlocal or cooperative or school district responsible for the local special education program.

(e) “Special education program” means services that are provided pursuant to public law 94-142, the education of all handicapped children’s act, as implemented in Kansas through K.S.A. 72-3403 et seq., and amendments thereto, and public law 101-476, the individuals with disabilities education act.

(f) “Secretary” means the secretary for children and families or the designee of the secretary.

(g) “Local transition council” means a representative group of persons with disabilities and their families, school personnel, adult service agency personnel and members of the general public, such as employers, that develops an annual plan to improve secondary special education, transition and transition planning services.

(h) *“Emotional disability” means the same as the term “emotional disturbance” is used in public law 101-476, the individuals with disabilities education act.*

Sec. 3. K.S.A. 2022 Supp. 72-3404 and 75-5399 are hereby repealed.

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

Approved April 18, 2023.

CHAPTER 34

HOUSE BILL No. 2216

AN ACT concerning motor vehicles; relating to driving with a license that is canceled, suspended or revoked; removing the mandatory imprisonment term for a first offense in certain circumstances; amending K.S.A. 8-262 and repealing the existing section.

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

Section 1. K.S.A. 8-262 is hereby amended to read as follows: 8-262. (a) (1) *Except as provided in subsections (a)(3), (a)(4) and (c), any person who drives a motor vehicle on any highway of this state at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a, and amendments thereto, shall be guilty of a class B nonperson misdemeanor on the first conviction and a class A nonperson misdemeanor on the second or subsequent conviction. In addition to any other criminal penalties provided by law, any person convicted of a violation of this section shall be subject to a fine of not less than \$100.*

(2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(3) ~~Except as otherwise provided by~~ *in subsection (a)(4) or (c), every person convicted under of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for any violation other than a violation of K.S.A. 8-2110, and amendments thereto, or any ordinance of any city, resolution of any county or a law of another state that prohibits the acts prohibited by those statutes other than K.S.A. 8-2110, and amendments thereto, shall be sentenced to at least five days' imprisonment and fined at least \$100 days of confinement and, upon a second conviction, shall not be eligible for parole until completion of five days' imprisonment days of confinement.*

(4) ~~Except as otherwise provided by~~ *in subsection (c), if a person: (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or, resolution of any county or a law of another state, which ordinance or resolution or law that prohibits the acts prohibited by those statutes; and (B) is or has been also convicted of a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of any city or, resolution of any county or law of another state, which ordinance or resolution or law that prohibits the acts prohibited by*

those statutes, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least ~~90 days' imprisonment~~ *days of confinement*, and any fine imposed on such person shall be in addition to such a term of ~~imprisonment~~ *confinement*.

(b) (1) Except as provided ~~by~~ *in* subsection (b)(2), the division, upon receiving a record of the conviction of any person under this section, or any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section, upon a charge of driving a vehicle while the license of such person is revoked or suspended, shall extend the period of such suspension or revocation for an additional period of 90 days.

(2) For any person found guilty of driving a vehicle while the license of such person is suspended for violating K.S.A. 8-2110, and amendments thereto, such offense shall not extend the additional period of suspension pursuant to subsection (b)(1).

(c) (1) The person found guilty of a class A nonperson misdemeanor on a third or subsequent conviction of this section shall be sentenced to not less than ~~90 days' imprisonment~~ *days of confinement* and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended or revoked because such person:

(A) Refused to submit and complete any test of blood, breath or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

(B) was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

(C) was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or involuntary manslaughter as defined in K.S.A. 2022 Supp. 21-5405(a)(3) and (a)(5), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

(D) was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(2) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least ~~90 days' imprisonment~~ *days of confinement*. The ~~90 days' imprisonment~~ *days of confinement* mandated by this subsection may be served in a work release program only after such person has served 48 consecutive ~~hours' imprisonment~~ *hours of confinement and only if* such work release program requires such person to return to confinement at

the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2022 Supp. 21-6609, and amendments thereto, or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive ~~hours' imprisonment~~ *hours of confinement*.

(d) For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city ~~or~~, resolution of any county or a law of another state that is in substantial conformity with this section.

Sec. 2. K.S.A. 8-262 is hereby repealed.

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

Approved April 18, 2023.

CHAPTER 35

HOUSE BILL No. 2336
(Amends Chapter 7)

AN ACT concerning governmental property; relating to public construction and improvement projects; increasing the bonding authority for public airport authorities for projects up to \$10,000,000; permitting bonding authority of more than \$10,000,000 or in excess of the 1.85% statutory limitation based on assessed value of property within the county upon approval by the board of county commissioners; increasing the cost threshold for mandatory convening of a negotiating committee to obtain professional services for state construction projects; providing for an annual increase in such cost threshold based on the consumer price index; changing the measure of such cost threshold from “total project cost” to “construction cost”; amending K.S.A. 27-334, 75-1253 and 75-5804 and repealing the existing sections.

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

Section 1. K.S.A. 27-334 is hereby amended to read as follows: 27-334. (a) The authority may issue its own general obligation bonds, revenue bonds and industrial revenue bonds as provided by this section.

(b) Prior to the issuance of general obligation bonds in an amount less than ~~\$1,000,000~~ \$10,000,000, the board of directors of the authority shall adopt a resolution setting forth the principal amounts of and the purpose for which the bonds are to be issued, and shall cause ~~the same~~ such resolution to be published once each week for two consecutive weeks in the official county newspaper. If, within 30 days after ~~the first~~ publication of the resolution, a petition in opposition to the issuance of the bonds, signed by not less than 5% of the qualified electors of the county is filed with the county election officer, the board of directors shall submit the proposed issuance of general obligation bonds to the electors of the county in the manner provided in the general bond law. If a majority of the voters voting on the proposition at the election vote in favor of the issuance, the bonds may be issued by the authority.

The board of directors shall submit any resolution for a proposed issuance of general obligation bonds in an amount ~~which that~~ is equal to or ~~which~~ exceeds ~~\$1,000,000~~ \$10,000,000 for approval ~~at a primary or general election by the qualified electors of the county. The election shall be called and held or disapproval by the board of county commissioners.~~ If the board of county commissioners disapproves the resolution of the authority, no further action shall be taken by the authority on the basis of such resolution. If the board of county commissioners approves the resolution of the authority, the board of directors of the authority may proceed to authorize and issue the general obligation bonds in the amount and for the purpose specified in such resolution. Following approval of the authority's resolution by the board of county commissioners, the authority shall cause the resolution to be published once each week for two consec-

utive weeks in the official county newspaper. If, within 30 days after the first publication of the resolution, a petition in opposition to the issuance of the bonds, signed by not less than 5% of the qualified electors of the county, is filed with the county election officer, the board of directors shall submit the proposed issuance of general obligation bonds to the electors of the county in the manner provided by the general bond law. If a majority of the voters voting on the question proposition at the election vote in favor thereof of the issuance, the bonds may be issued in the manner provided by the general bond law. Whenever an election has been called in which all of the qualified electors of the county are eligible to vote, the board also may submit for approval at such election any proposed issuance of general obligation bonds in an amount which is equal to or which exceeds \$1,000,000 by the authority.

General obligation bonds of the authority shall not be issued in an amount in excess of 1.85% of the assessed valuation of all the taxable tangible property within the county as shown by the assessment books of the previous year, *unless a resolution of the authority to exceed 1.85% of the assessed value of all the taxable tangible property within the county as shown by the assessment books of the previous year for a general obligation bond issuance is approved by the board of county commissioners. If the board of county commissioners disapproves the resolution of the authority, no further action shall be taken by the authority on the basis of such resolution. If the board of county commissioners approves the resolution of the authority, the board of directors of the authority may proceed to authorize and issue the general obligation bonds in the amount and for the purpose specified in such resolution. Following approval of the resolution of the authority by the board of county commissioners, the authority shall cause the resolution to be published once each week for two consecutive weeks in the official county newspaper. If, within 30 days after the first publication of the resolution, a petition in opposition to the issuance of the bonds, signed by not less than 5% of the qualified electors of the county is filed with the county election officer, the board of directors shall submit the proposed issuance of general obligation bonds to the electors of the county in the manner provided in the general bond law. If a majority of the voters voting on the proposition at the election vote in favor of the issuance, the bonds may be issued by the authority.* The general obligation bonds of the authority shall be authorized, issued, registered and sold in the manner provided by the general bond law and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 10-1009, and amendments thereto. The full faith and credit of the authority shall be pledged to the payment of the general obligation bonds of the authority. The general obligation bonds of the authority shall not constitute a debt or obligation of the city or county.

(c) The authority may issue revenue bonds ~~from time to time~~ for the purpose of purchasing, constructing or otherwise acquiring, repairing, extending or improving any property or facility of the authority and may pledge to the payment of the revenue bonds, both principal and interest, any rental, rates, fees or charges derived or to be derived by the authority from property or facilities owned or operated by it. The revenue bonds of the authority shall mature not later than 35 years after the date of issuance. The revenue bonds shall bear interest at a rate not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. The bonds and any interest coupons shall be negotiable. The bonds shall contain recitals stating the authority under which the bonds are issued, that they are issued in conformity with the provisions, restrictions and limitations of the authority and that the bonds and interest thereon shall be paid by the issuing authority from any rental, rates, fees or charges derived or to be derived by the authority from property or facilities owned or operated by it and not from any other fund or source. The bonds shall be registered in the office of the secretary or clerk of the authority issuing the bonds.

(d) The authority may issue the industrial revenue bonds of the authority in the manner provided by K.S.A. 12-1740 ~~to~~ *through* 12-1749, ~~inclusive~~, and amendments thereto, and any other applicable provisions of law.

(e) The board of directors may, on its own initiative, submit any proposed issuance of bonds for approval; by the qualified electors of the county at a primary or general election. Such election shall be otherwise called and held in the manner provided by the general bond law. Whenever an election has been called in which all the qualified electors of the county are eligible to vote, the board also may submit the question of issuing such bonds for approval at such election.

Sec. 2. K.S.A. 75-1253 is hereby amended to read as follows: 75-1253.
(a) (1) Whenever it becomes necessary in the judgment of the secretary of administration or in any case when the ~~total~~ *construction* cost of a project for the construction of a building or for major repairs or improvements to a building for a state agency is expected to exceed \$1,000,000 ~~the amount specified in paragraph (2)~~, the secretary of administration shall convene a negotiating committee. The state building advisory commission shall prepare a list of at least three ~~and~~ *but* not more than five firms ~~which that~~ are, in the opinion of the state building advisory commission, qualified to serve as project architect, engineer or land surveyor for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation.

(2) *The construction cost threshold to convene a negotiating committee as provided by paragraph (1) shall be \$1,500,000 for fiscal year*

2024. For fiscal year 2025, and all fiscal years thereafter, the threshold to convene a negotiating committee shall be the threshold amount for the immediately preceding fiscal year increased by an amount equal to 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 during the immediately preceding fiscal year rounded to the nearest whole dollar amount.

(b) The secretary of administration may combine two or more separate projects for the construction of buildings or for major repairs or improvements to buildings for state agencies, for the purpose of procuring architectural, engineering or land surveying services for all such projects from a single firm. In each case, the combined projects shall be construed to be a single project for all purposes under the provisions of K.S.A. 75-1250 through 75-1267, and amendments thereto.

(c) (1) This section shall not apply to any repetitive project with a standard plan that was originally designed by the secretary of administration or an agency architect pursuant to K.S.A. 75-1254(a)(2) and (3), and amendments thereto. In such a case, the secretary of administration or the agency architect may provide architectural services for the repetitive project.

(2) “Repetitive project” means a project ~~which~~ that uses the same standard design as was used for a project constructed previously, including, but not limited to, sub-area shops and salt domes of the department of transportation and showers and toilet buildings of the Kansas department of wildlife, ~~and parks and tourism~~. The plans for the project may be modified as required for current codes, operational needs or cost control. The total floor area of the project may be increased by an area of not more than 25% of the floor area of the originally constructed project, except that not more than 25% of the linear feet of the exterior and interior walls may be moved for such increase. A project shall not be considered to be repetitive if it has been over four years between the substantial completion of the last project using the design plans and the appropriation of funds for the proposed project.

Sec. 3. K.S.A. 75-5804 is hereby amended to read as follows: 75-5804. (a) (1) Whenever it becomes necessary in the judgment of the agency head of a state agency for which a project is proposed and, in any case where the total construction cost of such a proposed project is expected to exceed ~~\$500,000~~ the amount specified in paragraph (2), the agency head shall convene a negotiating committee. Except as otherwise provided in subsection (b), the agency head shall submit the list of at least three ~~and~~ but not more than five of the most highly qualified firms to the negotiating committee so convened, without any recommendation of preference or other recommendation.

(2) *The construction cost threshold to convene a negotiating committee as provided by paragraph (1) shall be \$1,500,000 for fiscal year 2024. For fiscal year 2025, and all fiscal years thereafter, the threshold to convene a negotiating committee shall be the threshold amount for the immediately preceding fiscal year increased by an amount equal to 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 during the immediately preceding fiscal year rounded to the nearest whole dollar amount.*

(b) Whenever a negotiating committee is convened under this section for a proposed project requiring engineering or land surveying services ~~which~~ *that* concerns the construction of any building or facility or any major repairs or improvements to any building or facility, including but not limited, to any heating, cooling or power facility, for a state agency, the agency head for the state agency shall notify the state building advisory commission of the project and shall request a list of firms qualified to provide the engineering or land surveying services for the proposed project. Upon receipt of any such request the state building advisory commission shall evaluate the current statements of qualifications and performance data on file, together with those statements that may be submitted by other firms regarding the proposed project and other information developed and available to the state building advisory commission. The commission shall prepare a list of at least three ~~and~~ *but* not more than five firms ~~which~~ *that*, in the opinion of the state building advisory commission, are qualified to furnish the engineering or land surveying services for the proposed project. Each such list shall be submitted to the negotiating committee so convened without any recommendation of preference or other recommendation.

Sec. 4. K.S.A. 27-334, 75-1253 and 75-5804 are hereby repealed.

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

Approved April 18, 2023.

CHAPTER 36

HOUSE BILL No. 2042
(Amended by Chapter 91)

AN ACT concerning self-service storage facilities; authorizing the towing by operators of such facilities of motor vehicles, watercraft or trailers if the occupant is in default for more than 60 days; granting operators protection from liability for damages; extinguishing an operator's lien on such property upon towing; providing for notice to the occupant and opportunity for redemption prior to towing; adding self-service storage facility operators to those persons who are specifically authorized to direct a wrecker or towing service to tow a motor vehicle for purposes of the creation of a lien in favor of a wrecker or towing service; amending K.S.A. 8-1103 and K.S.A. 2022 Supp. 58-817 and repealing the existing sections.

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

Section 1. K.S.A. 8-1103 is hereby amended to read as follows: 8-1103. (a) (1) Whenever any person providing wrecker or towing service, as defined by K.S.A. 66-1329, and amendments thereto, while lawfully in possession of a vehicle, at the direction of a law enforcement officer ~~or~~, the owner *or, if a city ordinance or county resolution authorizes the towing of vehicles by a wrecker or towing service, a self-service storage facility operator as provided by K.S.A. 58-817, and amendments thereto,* or as *otherwise* provided by a city ordinance or county resolution, renders any service to the owner thereof by the recovery, transportation, protection, storage or safekeeping thereof, a first and prior lien on the vehicle is hereby created in favor of such person rendering such service and the lien shall amount to the full amount and value of the service rendered. The lien may be foreclosed in the manner provided in this act.

(2) If the name of the owner of the vehicle is known to the person in possession of such vehicle, then within 15 days, notice shall be given to the owner that the vehicle is being held subject to satisfaction of the lien. Any vehicle remaining in the possession of a person providing wrecker or towing service for a period of 30 days after such wrecker or towing service was provided may be sold to pay the reasonable or agreed charges for such recovery, transportation, protection, storage or safekeeping of such vehicle and personal property therein, the costs of such sale, the costs of notice to the owner of the vehicle and publication after giving the notices required by this act, unless a court order has been issued to hold such vehicle for the purpose of a criminal investigation or for use as evidence at a trial.

(3) If a court orders any vehicle to be held for the purpose of a criminal investigation or for use as evidence at a trial, then such order shall be in writing, and the court shall assess as costs the reasonable or agreed charges for the protection, storage or safekeeping accrued while the vehicle was held pursuant to such written order.

(4) Any personal property within the vehicle need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid, or satisfactory arrangements for payment have been made, except as provided under subsection (c) or for personal medical supplies which shall be released to the owner thereof upon request. The person in possession of such vehicle and personal property shall be responsible only for the reasonable care of such property. Any personal property within the vehicle not returned to the owner shall be sold at the auction authorized by this act.

(b) At the time of providing wrecker or towing service, any person providing such wrecker or towing service shall give written notice to the driver, if available, of the vehicle being towed that a fee will be charged for storage of such vehicle. Failure to give such written notice shall invalidate any lien established for such storage fee.

(c) A city ordinance or county resolution authorizing the towing of vehicles from private property shall specify in such ordinance or resolution:

(1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees;

(2) that an owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner; and

(3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow.

(d) A person providing towing services shall not tow a vehicle to a location outside of Kansas without the consent of either:

(1) The driver or owner of the motor vehicle;

(2) a motor club of which the driver or owner of the motor vehicle is a member; or

(3) the insurance company processing a claim with respect to the vehicle or an agent of such insurance company.

Sec. 2. K.S.A. 2022 Supp. 58-817 is hereby amended to read as follows: 58-817. (a) (1) If the occupant is in default for a period of more than 45 days, the operator may enforce the lien by selling the property stored in the leased space for cash. Sale of the property stored on the premises may be conducted online or in person, by public or private proceedings and may also be as a unit or in parcels, or by way of one or more contracts and at any time or place, and on any terms as long as the sale is commercially reasonable. The operator may otherwise dispose of any property that has no commercial value.

(2) The proceeds of such sale shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (d).

(3) *If the property subject to the operator's lien is a motor vehicle, watercraft or trailer and the occupant is in default for a period of more than*

60 days, the operator may have such property towed from the self-service storage facility. The operator shall not be liable for any damages to the motor vehicle, watercraft or trailer after a towing service takes possession of such property if such towing service has a certificate of public service from the state corporation commission, as provided by K.S.A. 66-1330, and amendments thereto. Towing of a motor vehicle at the direction of the operator shall only be permitted if a city ordinance or county resolution of the city or county where the self-service storage facility is located authorizes the towing of vehicles by a wrecker or towing service, as provided by K.S.A. 8-1103, and amendments thereto. The operator's lien on the motor vehicle, watercraft or trailer shall be extinguished if such property is towed from the self-service storage facility under this subsection.

(b) Before conducting a sale or authorizing a tow under subsection (a), the operator shall:

(1) Notify the occupant of the default by first-class mail at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator;

(2) send a second notice of default, not less than seven days after the notice required by subsection (b)(1), by first-class mail to the occupant at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator. A second notice of default shall include:

(A) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(B) a statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of release for sale and the date those additional charges shall become due;

(C) a demand for payment of the charges due within a specified time, not less than 10 days after the date of the notice;

(D) a statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold or, *if the contents is a motor vehicle, watercraft or trailer, may be towed* after a specified time; and

(E) the name, street address and telephone number of the operator, or a designated agent whom the occupant may contact to respond to the notice.

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held or in any other commercially reasonable manner. Such advertisement shall be in the classified section of the newspaper, if notice is placed in the newspaper. If less than three independent bidders attend the sale in person or view the sale online at the time and place advertised, the manner of advertising the sale shall

not be considered to have been commercially reasonable and the sale shall be canceled, rescheduled and readvertised. Further notice to the occupant shall not be required.

(c) At any time before a sale *or a tow* under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) If a sale is held under this section, the operator shall:

(1) Satisfy the lien from the proceeds of the sale; and

(2) hold the balance, if any, for delivery on demand to the occupant or any other recorded lienholders for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with the disposition of unclaimed property act.

(e) A purchaser in good faith of any personal property sold under the self-service storage act takes the property free and clear of any rights of:

(1) Persons against whom the lien was valid; and

(2) other lienholders.

(f) If the operator complies with the provisions of the self-service storage act, the operator's liability:

(1) To the occupant shall be limited to the net proceeds received from the sale of the personal property; and

(2) to other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by the other lien.

(g) If an occupant is in default, the operator may deny the occupant access to the leased space.

(h) Notices to the occupant shall be sent to the occupant at the occupant's last-known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection (b), with postage prepaid.

Sec. 3. K.S.A. 8-1103 and K.S.A. 2022 Supp. 58-817 are hereby repealed.

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

Approved April 18, 2023.

CHAPTER 37

HOUSE BILL No. 2015

AN ACT concerning public health; relating to infectious disease; authorizing the designee of an employing agency or entity to petition the court for an order requiring infectious disease testing; amending K.S.A. 65-6008 and repealing the existing section.

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

Section 1. K.S.A. 65-6008 is hereby amended to read as follows: 65-6008. (a) If a corrections officer, emergency services employee, law enforcement employee or juvenile correctional facility staff comes in contact with or otherwise is exposed to transmission of body fluids from one or more other persons while performing duties within the scope of such employee's duties as an employee, the head of the employing agency or entity, *or the agency or entity head's designee*, may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests.

(b) Such application shall include an allegation that the person or persons sought to be tested have been requested to submit voluntarily to infectious disease tests and have refused the tests. When any such application is received, the court shall *promptly* hold a hearing ~~forthwith~~ and shall issue its order thereon immediately if the court finds that:

(1) There is probable cause to believe that the employee involved has come in contact with or otherwise has been exposed to transmission of the body fluids of the person or persons sought to be tested; and

(2) the person or persons sought to be tested have been requested to submit to the tests and have refused, unless the court makes a further finding that exigent circumstances exist which, in the court's judgment, would excuse the applicant from making such a request.

(c) If an infectious disease test ordered pursuant to this section results in a negative reaction, the court shall order the person tested to submit to another infectious disease test six months from the date the first test was administered.

(d) The results of any infectious disease test ordered pursuant to this section shall be disclosed to the court ~~which~~ *that* ordered the test, the employee and the person tested. If an infectious disease test ordered pursuant to this section results in a positive reaction, the results shall be reported to the employee.

Sec. 2. K.S.A. 65-6008 is hereby repealed.

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

Approved April 18, 2023.

CHAPTER 38

HOUSE BILL No. 2020*

AN ACT concerning transportation; relating to the employment status of a driver of a motor carrier; prohibiting the altering of employment status for requiring safety improvements on the vehicle; relating to the Kansas transportation network company services act; establishing conditions for when a driver is an independent contractor for a transportation network company.

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

Section 1. (a) The deployment, implementation or use of a motor carrier safety improvement by, or as required by, a motor carrier or such motor carrier's related entity, including by contract, shall not, in whole or in part, affect, impact or change the worker status of a driver.

(b) For purposes of this section:

(1) "Motor carrier safety improvement" means any device, equipment, software, technology, procedure, training, policy, program or operational practice intended and primarily used to improve or facilitate:

(A) Compliance with traffic safety or motor carrier safety laws;

(B) motor vehicle safety;

(C) the safety of the operator of a motor vehicle; or

(D) the safety of a third-party public roadway user.

(2) "Worker status" means the classification under any state law of a motor vehicle driver who engages in the transportation of property for compensation as an agent, employee, jointly employed employee, borrowed servant or independent contractor for a motor carrier.

(c) This section shall be deemed to be supplemental to existing laws relating to conditions of employment and related matters.

Sec. 2. (a) All transportation network company drivers shall be independent contractors and not employees of the transportation network company if all of the following conditions are met:

(1) The transportation network company does not prescribe specific hours that a transportation network company driver shall be logged into the transportation network company's digital network;

(2) the transportation network company imposes no restrictions on the transportation network company driver's ability to utilize digital networks from other transportation network companies;

(3) the transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(4) the transportation network company and the transportation network company driver agree in writing that the driver is an independent contractor with respect to the transportation network company.

(b) The provisions of this section shall be limited to the relationship between transportation network companies and transportation network company drivers.

(c) This act shall be a part of and supplemental to the Kansas transportation network company services act.

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

Approved April 18, 2023.

CHAPTER 39

HOUSE BILL No. 2065

AN ACT concerning family law; relating to dissolution of marriage; allowing change to name other than former or maiden name; removing reference to maiden name; amending K.S.A. 2022 Supp. 23-2716 and repealing the existing section.

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

Section 1. K.S.A. 2022 Supp. 23-2716 is hereby amended to read as follows: 23-2716. (a) Upon the request of a spouse, the court shall order the restoration of that spouse's ~~maiden or~~ former name. The court shall have jurisdiction to restore the spouse's ~~maiden or~~ former name at or after the time the decree of divorce becomes final.

(b) *Upon the request of a spouse, the court may order such spouse's name be changed to a name that is different than such spouse's former name. The court shall have jurisdiction to change the spouse's name at or after the time the decree of divorce becomes final.*

(c) The judicial council shall develop a form ~~which~~ that is simple, concise and direct for use with this ~~paragraph~~ section.

Sec. 2. K.S.A. 2022 Supp. 23-2716 is hereby repealed.

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

Approved April 18, 2023.

CHAPTER 40

HOUSE BILL No. 2125

AN ACT concerning health and healthcare; relating to the practice of cosmetology and barbering; powers, duties and functions of the Kansas state board of cosmetology; requiring certain administrative actions to be in accordance with the Kansas administrative procedure act and reviewable under the Kansas judicial review act; providing for charitable event permits and demonstration permits to provide tattooing, cosmetic tattooing or body piercing services; authorizing cease and desist orders against unlicensed providers of tattooing, cosmetic tattooing or body piercing services; requiring tattoo artists, cosmetic tattoo artists and body piercers to keep case history cards for three years instead of five years; exempting adult care homes from statutes governing cosmetology and barbering facilities; amending K.S.A. 65-1904a, 65-1941, 65-1946 and 74-1807 and repealing the existing sections.

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

New Section 1. (a) For all professions regulated by the Kansas state board of cosmetology pursuant to K.S.A. 65-1940 through 65-1954, and amendments thereto, the board shall conduct any action in any administrative proceeding in accordance with the Kansas administrative procedure act. Such actions shall be reviewable in accordance with the Kansas judicial review act. Judicial review shall be taken if the petitioner files with the clerk of the reviewing court a bond with a sufficient surety, conditioned on the payment of all assessed costs, if the decision of the board is sustained. If appellate review of the district court's decision is sought in accordance with K.S.A. 77-623, and amendments thereto, then the board shall not be required to give a bond on such review.

(b) For all professions regulated by the board pursuant to K.S.A. 65-1940 through 65-1954, and amendments thereto, if the board's order in any administrative proceeding under K.S.A. 65-1940 through 65-1954, and amendments thereto, is adverse to the applicant, apprentice or licensee, then the costs incurred by the board in conducting any investigation or proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances, including the nature of the proceeding and the level of participation by the parties. If the board is not the prevailing party in any such action, then such costs shall be paid from the cosmetology fee fund.

(c) The board shall include any assessment of costs incurred as part of a final order rendered in a proceeding. The order shall include findings and conclusions in support of the assessment of costs.

(d) For purposes of this section, "costs incurred" includes, but is not limited to:

(1) Presiding officer fees and expenses, only if the board has designated or retained the services of an independent contractor or the office of administrative hearings to perform presiding officer functions;

- (2) costs of preparing any transcripts;
- (3) reasonable investigative costs;
- (4) witness fees and expenses; and
- (5) mileage, travel expenses and subsistence allowances of board employees and fees and expenses of agents of the board who provide services under K.S.A. 74-2702, and amendments thereto.

(e) All moneys collected by the board following or arising from board proceedings shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the cosmetology fee fund.

(f) This section shall be a part of and supplemental to K.S.A. 65-1940 through 65-1954, and amendments thereto.

New Sec. 2. (a) Any person may apply to the Kansas state board of cosmetology for a charitable event permit. Any such application shall be on a form and in a manner approved by the board and accompanied by the fee established under K.S.A. 65-1950, and amendments thereto.

(b) The board may grant a charitable event permit for any event at any location in the state of Kansas where persons licensed by the board to practice any profession regulated under K.S.A. 65-1940 through 65-1954, and amendments thereto, will provide services authorized under K.S.A. 65-1940 through 65-1954, and amendments thereto, at no cost to recipients. Any charitable event permit granted under this section shall expire not later than 30 days after issuance by the board.

(c) The board shall adopt rules and regulations as necessary to implement and administer this section. Such rules and regulations shall be adopted on or before December 31, 2023.

(d) As used in this section:

(1) “Charitable event” means an event conducted for a charitable purpose, whether indoors or outdoors, that is held at a specified time and location where services are provided by licensed practitioners at no cost to recipients, as a charity to recipients, or charitable causes approved by the board.

(2) “Charitable purpose” means any purpose that promotes, or purports to promote, directly or indirectly, the well-being, in general or limited to certain activities, endeavors or projects, of the public at large, any number of persons or any humane purpose.

(e) This section shall be a part of and supplemental to K.S.A. 65-1940 through 65-1954, and amendments thereto.

New Sec. 3. (a) Any person may apply to the Kansas state board of cosmetology for a demonstration permit. Any such application shall be on a form and in a manner approved by the board and accompanied by the fee established under K.S.A. 65-1950, and amendments thereto.

(b) (1) The board may grant a demonstration permit to a person to provide services authorized under K.S.A. 65-1940 through 65-1954, and amendments thereto, at a state or national convention, an establishment licensed by the Kansas state board of cosmetology or any other event location approved by the board. If a person who applies for a demonstration permit to provide such services is not licensed in this state, the board may grant a demonstration permit if:

(A) Such person is licensed to practice such profession regulated under K.S.A. 65-1940 through 65-1954, and amendments thereto, in another state or jurisdiction; and

(B) such license has not been revoked, suspended or conditioned from the practice of such profession.

(2) If an application for a demonstration permit is submitted by a citizen of a foreign country who has not been issued a social security number and who has not been licensed by any other state, the board shall not require the applicant to submit a social security number and shall instead accept a valid visa or passport identification number.

(3) Any demonstration permit issued under this section shall expire not later than 14 days after issuance of the board.

(c) The board shall adopt rules and regulations as necessary to implement and administer this section. Such rules and regulations shall be adopted on or before December 31, 2023.

(d) This section shall be a part of and supplemental to K.S.A. 65-1940 through 65-1954, and amendments thereto.

Sec. 4. K.S.A. 65-1904a is hereby amended to read as follows: 65-1904a. (a) Any licensed cosmetologist, esthetician, electrologist, manicurist, or person desiring to establish a salon or clinic shall make application, on a form provided, to the Kansas state board of cosmetology, accompanied by the new salon or clinic license fee established under K.S.A. 65-1904, and amendments thereto. Upon filing of the application, the board shall inspect the equipment as to safety and sanitary condition of the premises and if the equipment and premises are found to comply with the rules and regulations of the secretary of health and environment and the rules and regulations of the Kansas state board of cosmetology, the board shall issue a new salon or clinic license. *An adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a long-term care unit of a medical care facility, as defined in K.S.A. 65-425, and amendments thereto, shall be exempted from the provisions of this section.*

(b) ~~Nothing herein contained in this section shall be construed as preventing any licensed cosmetologist, manicurist, esthetician or electrologist from practicing in the field for which licensed in such licensee's private home or residence if the home or residence complies with rules and regulations of the secretary and the state board. A licensed cosmetologist,~~

manicurist, esthetician or electrologist may provide services in the field in which licensed in a place other than the licensed salon or clinic or a private home or residence of the licensed cosmetologist, manicurist, esthetician or electrologist. Excluding services provided by a licensed cosmetologist, manicurist, esthetician or electrologist in a ~~health care~~ *healthcare* facility, hospital or ~~nursing home~~ *adult care home* or in the residence of a person requiring home care arising from physical or mental disabilities, in order to provide such services, such licensed cosmetologist, manicurist, esthetician or electrologist shall:

(1) Be employed in a salon or clinic or in the licensed cosmetologist's, manicurist's, esthetician's or electrologist's private home or residence for at least 51% of the total hours per week employed; and ~~shall~~

(2) attest by affidavit that such cosmetology, manicuring, esthetics or electrology services shall be provided only in the residence or office of the person receiving services.

(c) Licensed salons and clinics may be reinspected in accordance with a schedule determined by the board by rules and regulations or upon a complaint made to the board that such salon or clinic is not being maintained in compliance with rules and regulations of the board. The license shall expire one year from the last day of the month of its issuance. Any such license may be renewed upon application accompanied by the salon or clinic license renewal fee made to the board prior to the expiration date of the license. Any license may be renewed by the applicant within 60 days after the date of expiration of the last license upon payment of the annual renewal fee plus the delinquent renewal fee.

(d) ~~On or after July 1, 2014,~~ Salon and clinic renewal application fees ~~will~~ *shall* be prorated to reflect an expiration date one year from the last day of the month of the initial issuance of the license.

Sec. 5. K.S.A. 65-1941 is hereby amended to read as follows: 65-1941.

(a) No person, including a tattoo artist, cosmetic tattoo artist or body piercer, shall perform tattooing, cosmetic tattooing or body piercing on another person, display a sign or in any other way advertise or purport to be a tattoo artist, cosmetic tattoo artist or body piercer unless that person holds a valid license issued by the board. This act does not prevent or affect the use of tattooing, cosmetic tattooing or body piercing by a physician, a person under the control and supervision of a physician, a licensed dentist, a person under the control and supervision of a licensed dentist, *or an individual performing tattooing, cosmetic tattooing or body piercing solely on such individual's body.*

(b) Violation of subsection (a) is a class A nonperson misdemeanor.

(c) The board may bring an action to enjoin any person required to be licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto, from practicing body piercing, tattooing or cosmetic tattooing if such

person does not hold a currently valid license authorizing the person to engage in such practice. The board may bring an action to enjoin any person from operating an establishment required to be licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto, if such person does not hold a currently valid establishment license.

(d) The board may order the remedying of any violations of rules and regulations of the board or any provision of this act, and the board may issue a cease and desist order upon board determination that ~~the holder of a license~~ *a person* has violated any order of the board, any rules and regulations of the board or any provision of K.S.A. 65-1940 through 65-1954, and amendments thereto.

Sec. 6. K.S.A. 65-1946 is hereby amended to read as follows: 65-1946. Licensed practicing tattoo artists, cosmetic tattoo artists and body piercers shall meet the following standards and any others the board may adopt by rules and regulations:

(a) Tattoo artists, cosmetic tattoo artists and body piercers, and their establishments shall comply with all applicable sanitation standards adopted by the secretary pursuant to K.S.A. 65-1,148, and amendments thereto;

(b) practicing tattoo artists, cosmetic tattoo artists and body piercers shall be equipped with appropriate sterilizing equipment, with availability of hot and cold running water and a covered waste receptacle; and

(c) case history cards shall be kept for each client for a period of ~~five~~ *three* years.

Sec. 7. K.S.A. 74-1807 is hereby amended to read as follows: 74-1807.

(a) Upon presentation of proper credentials, any member of the board, the administrative officer or the board's inspectors shall have the authority to enter, inspect and enforce rules and regulations pertaining to barber shops, barber schools or barber colleges at any time during business hours.

(b) *The provisions of this section shall not include or apply to an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a long-term care unit of a medical care facility, as defined in K.S.A. 65-425, and amendments thereto.*

Sec. 8. K.S.A. 65-1904a, 65-1941, 65-1946 and 74-1807 are hereby repealed.

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

Approved April 19, 2023.

CHAPTER 41

SENATE BILL No. 119

AN ACT concerning insurance; updating certain statutory references contained in chapter 40 of the Kansas Statutes Annotated; specifying certain requirements of documents submitted by medicare provider organizations and health maintenance organizations to demonstrate fiscal soundness; removing the requirement of a documented written demand for premium as part of a prima facie case; adding certain legal entities to the definition of person for purposes of violations of insurance law; updating the version of risk-based capital insurance in effect; amending K.S.A. 40-201, 40-216, 40-241, 40-247, 40-2, 125, 40-955 and 40-3203 and K.S.A. 2022 Supp. 40-2c01 and repealing the existing sections.

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

Section 1. K.S.A. 40-201 is hereby amended to read as follows: 40-201. For the purposes of this article the term “insurance company” shall, unless otherwise provided, apply to all corporations, companies, associations, societies, persons or partnerships writing contracts of insurance, indemnity or suretyship upon any type of risk or loss: ~~Provided, however, That this definition shall not be held to.~~ “Insurance company” does not include fraternal benefit societies as defined in ~~section 40-701 of this code~~ K.S.A. 40-738, ~~and amendments thereto,~~ or hospitals or hospital associations ~~which that~~ have been in operation ~~ten years or more~~ for not less than 10 years.

Sec. 2. K.S.A. 40-216 is hereby amended to read as follows: 40-216. (a) (1) No insurance company shall hereafter transact business in this state until certified copies of its charter and amendments thereto shall have been filed with and approved by the commissioner of insurance. A copy of the bylaws and amendments thereto of insurance companies organized under the laws of this state shall also be filed with and approved by the commissioner of insurance. The commissioner may also require the filing of such other documents and papers as are necessary to determine compliance with the laws of this state.

(2) (A) Except as provided in subparagraph (B), each contract of insurance or indemnity issued or delivered in this state shall be effective on filing, or any subsequent date selected by the insurer, unless the commissioner disapproves such contract of insurance or indemnity within 30 days after filing because the contract of insurance or indemnity does not comply with Kansas law.

(B) The following contracts of insurance or indemnity shall not be subject to the provisions of subsection (A):

(i) Contracts pertaining to large risks as defined in ~~subsection (i) of~~ K.S.A. 40-955, and amendments thereto, which are exempt from the filing requirements of this section;

(ii) personal lines contracts filed in accordance with paragraph (3) ~~of this section;~~

(iii) any form filing for the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto; and

(iv) form filing for workers compensation.

No form filing listed in clauses (iii) and (iv) ~~of this subparagraph~~ shall be used in this state by any insurer until such form filing has been approved by the commissioner.

(3) Each personal lines contract of insurance or indemnity issued or delivered in this state shall be on file for a period of 30 days before becoming effective unless the commissioner disapproves such personal lines contract of insurance or indemnity within 30 days after filing because the contract of insurance or indemnity does not comply with Kansas law. For the purposes of this paragraph, the term “personal lines” ~~shall mean~~ *means* insurance for noncommercial automobile, homeowners, dwelling, fire and renters insurance policies as defined by the commissioner by rules and regulations.

(4) Under such rules and regulations as the commissioner of insurance shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing forms of contracts of insurance or indemnity, which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make an examination to ascertain whether any forms affected by such order meet the standards of this code.

(5) The failure of any insurance company to comply with this section shall not constitute a defense to any action brought on its contracts. An insurer may satisfy its obligation to file its contracts of insurance or indemnity either individually or by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer.

(b) The commissioner of insurance shall allow any insurance company authorized to transact business in this state to deliver to any person in this state any contract of insurance or indemnity, including any explanatory materials, written in any language other than the English language under the following conditions:

(1) The insured or applicant for insurance who is given a copy of the same contract of insurance or indemnity or explanatory materials written in the English language;

(2) the English language version of the contract for insurance or indemnity or explanatory materials delivered shall be the controlling version; and

(3) any contract of insurance or indemnity or explanatory materials written in any language other than English shall contain a disclosure statement printed in both the English language and the other language used,

stating the English version of the contract of insurance or indemnity is the official or controlling version and that the version is written in any language other than English is furnished for informational purposes only.

(c) All contracts of insurance or indemnity that are required to be filed with the commissioner of insurance shall be accompanied by any version of such contract of insurance or indemnity written in any language other than the English language.

(d) Any insurance company or insurer, including any agent or employee thereof, who knowingly misrepresents the content of a contract of insurance or indemnity or explanatory materials written in a language other than the English language shall be deemed to have violated the unfair trade practice law.

(e) For the purposes of this section, the term “contract of insurance or indemnity” ~~shall include~~ *includes* any rider, endorsement or application pertaining to such contract of insurance or indemnity.

(f) (1) If at any time after a filing becomes effective, the commissioner finds that such filing does not comply with this act, after the commissioner shall send written notice to every insurer and rating organization making such filing that a hearing concerning such filing will be held in not less than 10 days.

(2) After the hearing, the commissioner shall issue an order stating:

(A) The reasons why such filing failed to comply with the act; and

(B) the date, within a reasonable time after the date the order is issued, upon which such filing shall no longer be effective.

(3) A copy of the commissioner’s order shall be sent to every insurer and rating organization that made such filing.

(4) No order issued pursuant to this subsection shall affect any contract or policy made or issued under such filing prior to the date specified upon which such filing shall no longer be effective.

Sec. 3. K.S.A. 40-241 is hereby amended to read as follows: 40-241. Any applicant or prospective applicant for an agent’s license, if an individual, shall be given an examination by the commissioner or the commissioner’s designee to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, or to be applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance that may be written. An examination fee prescribed in rules and regulations adopted by the commissioner shall be paid by the applicant and shall be required for each class of insurance for each attempt to pass the examination. Such examination fee shall be in addition to the certification fee required under K.S.A. 40-252, and amendments thereto. There shall be four classes of insurance for the purposes of this act:

- (1) Life;
- (2) accident and health;
- (3) casualty and allied lines; and
- (4) property and allied lines.

An insurance license may be issued as a subclassification of casualty and allied lines to any auto rental agency. An auto rental agency may offer or sell insurance only in connection with and incidental to the rental of motor vehicles, whether at the rental office, at the point of delivery of a vehicle, or by preselection of coverage in a master, corporate or group rental agreement, in any of the following general categories:

- (1) Personal accident insurance covering risks of travel;
- (2) motor vehicle liability insurance;
- (3) personal effects insurance providing coverage to renters and other occupants of the motor vehicle;
- (4) roadside assistance and emergency sickness protection programs;

and

- (5) any other travel or auto-related coverage an auto rental company may offer in connection with and incidental to rental of motor vehicles.

No insurance may be issued by an auto rental agency unless the rental period of the rental agreement does not exceed 90 consecutive days and brochures and other written material clearly and correctly explaining insurance coverages offered by the agency are available for prospective renters and clear and complete disclosures are provided to prospective renters that such coverage may be duplicative of other insurance owned by the renter, that purchase of insurance coverage is not a condition for renting a motor vehicle and describing the process for filing a claim.

Auto rental agencies employing representatives shall conduct a training program for each representative, providing instruction on the kinds of insurance coverage offered by the agency.

No auto rental agency shall offer or solicit any insurance other than the coverages described in this section without an insurance license. No auto rental employee or auto rental agency shall advertise or otherwise hold themselves out as licensed insurers, insurance agents or insurance brokers.

The commissioner of insurance shall adopt rules and regulations with respect to the scope, subclassification, type and conduct of such examination. Examinations shall be given to applicants at least twice a month in Topeka, Kansas, and at least quarterly in other convenient locations in the state of Kansas. The commissioner shall publish or arrange for the publication of information and material which applicants can use to prepare for such examination. One or more rating organizations, advisory organizations or other associations may be designated by the commissioner to assist in, or assume responsibility for, distribution of the study manuals to applicants and other interested parties. Persons purchasing

the study manual shall be charged a reasonable fee established or approved by the commissioner. In the event the publication and distribution of the study material or the development and conduct of examinations is delegated to private firms, organizations or associations and the state incurs no expense or obligation, the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, shall not apply. If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. ~~40-241~~ 40-4912, and amendments thereto. If such applicant fails to satisfactorily complete the examination, the examination may be retaken following a waiting period of not less than seven days from the date of the last attempt. If the applicant again fails to satisfactorily complete the examination, it may be retaken following another waiting period of not less than seven days from the date of the most recent attempt.

Sec. 4. K.S.A. 40-247 is hereby amended to read as follows: 40-247. (a) An insurance agent or broker who acts in negotiating or renewing or continuing a contract of insurance including any type of annuity by an insurance company lawfully doing business in this state, and who receives any money or substitute for money as a premium for such a contract from the insured, whether such agent or broker shall be entitled to an interest in same or otherwise, shall be deemed to hold such premium in trust for the company making the contract. If such agent or broker fails to pay the same over to the company ~~after written demand made upon such agent or broker~~, less such agent's or broker's commission and any deductions, to which by the written consent of the company such agent or broker may be entitled, such failure shall be prima facie evidence that such agent or broker has used or applied the premium for a purpose other than paying the same over to the company.

(b) (1) An agent or broker who violates the provisions of this section shall be guilty of a:

(A) Severity level 7, nonperson felony if the value of the insurance premium is \$25,000 or more;

(B) severity level 9, nonperson felony if the value of the insurance premium is at least \$1,000 but less than \$25,000; or

(C) class A nonperson misdemeanor if the value of the insurance premium is less than \$1,000.

(2) If the value of the insurance premium is less than \$1,000 and such agent or broker has, within five years immediately preceding commission of the crime, been convicted of violating this section two or more times shall be guilty of a severity level 9, nonperson felony.

Sec. 5. K.S.A. 40-2,125 is hereby amended to read as follows: 40-2,125. (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation;

(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a civil penalty of up to \$1,000, for each violation or act, along with an additional penalty of up to \$500 for each week thereafter that such report or other information is not provided to the commissioner.

(c) If the commissioner makes written findings of fact that there is a situation involving an immediate danger to the public health, safety or welfare or the public interest will be irreparably harmed by delay in issuing an order under subsection (a)(3), the commissioner may issue an emergency temporary cease and desist order. Such order, even when not an order within the meaning of K.S.A. 77-502, and amendments thereto, shall be subject to the same procedures as an emergency order issued under K.S.A. 77-536, and amendments thereto. Upon the entry of such an order, the commissioner shall promptly notify the person subject to the order that: (1) It has been entered; (2) the reasons therefor; and (3) that upon written request within 15 days after service of the order the matter will be set for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the person subject to the order, shall by written findings of fact and conclusions of law vacate, modify or make permanent the order.

(d) For purposes of this section:

(1) “Person” means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd’s insurer, fraternal benefit society and any other legal entity engaged in the business of insurance, rating organization, third party administrator, nonprofit dental service corporation, nonprofit medical and hospital service corporation, automobile club, premium financing company, health maintenance organization, insurance holding company, mortgage guaranty insurance company, risk retention or purchasing group, prepaid legal and dental service plan, captive insurance company, automobile self-insurer or reinsurance intermediary *and any other legal entity under the jurisdiction of the commissioner*. The term “person” ~~shall~~ *does* not include insurance agents and brokers as such terms are defined in K.S.A. 40-4902, and amendments thereto.

(2) “Commissioner” means the commissioner of insurance of this state.

Sec. 6. K.S.A. 2022 Supp. 40-2c01 is hereby amended to read as follows: 40-2c01. As used in this act:

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

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

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

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

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

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

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

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

- (i) “RBC” means risk-based capital.
- (j) “RBC instructions” means the risk-based capital instructions promulgated by the NAIC that are in effect on December 31, ~~2021~~ 2022, or any later version promulgated by the NAIC as may be adopted by the commissioner under K.S.A. 40-2c29, and amendments thereto.
- (k) “RBC level” means an insurer’s company action level RBC, regulatory action level RBC, authorized control level RBC or mandatory control level RBC where:
 - (1) “Company action level RBC” means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;
 - (2) “regulatory action level RBC” means the product of 1.5 and its authorized control level RBC;
 - (3) “authorized control level RBC” means the number determined under the risk-based capital formula in accordance with the RBC instructions; and
 - (4) “mandatory control level RBC” means the product of 0.70 and the authorized control level RBC.
- (l) “RBC plan” means a comprehensive financial plan containing the elements specified in K.S.A. 40-2c06, and amendments thereto. If the commissioner rejects the RBC plan, and it is revised by the insurer, with or without the commissioner’s recommendation, the plan shall be called the “revised RBC plan.”
- (m) “RBC report” means the report required by K.S.A. 40-2c02, and amendments thereto.
- (n) “Total adjusted capital” means the sum of:
 - (1) An insurer’s capital and surplus or surplus only if a mutual insurer; and
 - (2) such other items, if any, as the RBC instructions may provide.
- (o) “Commissioner” means the commissioner of insurance.

Sec. 7. K.S.A. 40-955 is hereby amended to read as follows: 40-955.

(a) Every insurer shall file with the commissioner, except as to inland marine risks where general custom of the industry is not to use manual rates or rating plans, every manual of classifications, rules and rates, every rating plan, policy form and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the proposed effective date and the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filings. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner, except that disclosure shall not be required for any information contained in a filing or in any supporting documentation for the filing when such information is either a trade secret or copyrighted. For the purposes of this section, the term “trade secret” ~~shall have the meaning ascribed to it~~ means the same as de-

*fin*ed in K.S.A. 60-3320, and amendments thereto. An insurer may satisfy its obligations to make such filings by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained in this act shall be construed to require any insurer to become a member or subscriber of any rating organization.

(b) Certificate of insurance forms must be filed with the commissioner of insurance and approved prior to use. Notwithstanding the “large risk” filing exemption in subsection ~~(j)~~ (i), a certificate of insurance cannot be used to modify, alter or amend the insurance policy it describes. The certificate of insurance shall contain the following or similar language: The certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by the policies listed thereon. An industry standard setting organization may be authorized by the commissioner of insurance to file certificate of insurance forms on behalf of authorized insurers.

(c) Any rate filing for the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto, loss costs filings for workers compensation, and rates for assigned risk plans established by article 21 of chapter 40 of the Kansas Statutes Annotated or rules and regulations established by the commissioner shall require approval by the commissioner before its use by the insurer in this state. As soon as reasonably possible after such filing has been made, the commissioner shall in writing approve or disapprove the same, except that any filing shall be deemed approved unless disapproved within 30 days of receipt of the filing.

(d) Any other rate filing, except personal lines filings, shall become effective on filing or any prospective date selected by the insurer, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fails to meet the requirements of this act. Personal lines rate filings shall be on file for a waiting period of 30 days before becoming effective, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet requirements of this act. The term “personal lines” shall mean insurance for noncommercial automobile, homeowners, dwelling fire-and-renters insurance policies, as defined by the commissioner by rules and regulations. A filing complies with this act unless it is disapproved by the commissioner within the waiting period or pursuant to subsection (f).

(e) In reviewing any rate filing the commissioner may require the insurer or rating organization to provide, at the insurer’s or rating organization’s expense, all information necessary to evaluate the reasonableness of the filing, to include payment of the cost of an actuary selected by the commissioner to review any rate filing, if the department of insurance does not have a staff actuary in its employ.

(f) (1) (A) If a filing is not accompanied by the information required by this act, the commissioner shall promptly inform the company or organization making the filing. The filing shall be deemed to be complete when the required information is received by the commissioner or the company or organization certifies to the commissioner the information requested is not maintained by the company or organization and cannot be obtained.

(B) If the commissioner finds a filing does not meet the requirements of this act, the commissioner shall send to the insurer or rating organization that made the filing, written notice of disapproval of the filing, specifying in what respects the filing fails to comply and stating the filing shall not become effective.

(C) If at any time after a filing becomes effective, the commissioner finds a filing does not comply with this act, the commissioner shall after a hearing held on not less than 10 days' written notice to every insurer and rating organization that made the filing issue an order specifying in what respects the filing failed to comply with the act, and stating when, within a reasonable period thereafter, the filing shall be no longer effective. Copies of the order shall be sent to such insurer or rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(2) (A) In the event an insurer or organization has no legally effective rate because of an order disapproving rates, the commissioner shall specify an interim rate at the time the order is issued. The interim rate may be modified by the commissioner on the commissioner's own motion or upon motion of an insurer or organization.

(B) The interim rate or any modification thereof shall take effect prospectively in contracts of insurance written or renewed 15 days after the commissioner's decision setting interim rates.

(C) When the rates are finally determined, the commissioner shall order any overcharge in the interim rates to be distributed appropriately, except refunds to policyholders the commissioner determines are de minimis may not be required.

(3) (A) Any person or organization aggrieved with respect to any filing that is in effect may make written application to the commissioner for a hearing thereon, except that the insurer or rating organization that made the filing may not proceed under this subsection. The application shall specify the grounds to be relied on by the applicant.

(B) If the commissioner finds the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall, within 30 days after receipt of the application, hold a hearing on not less than 10 days' written notice to the applicant and every insurer and rating organization that made such filing.

(C) Every rating organization receiving a notice of hearing or copy of an order under this section, shall promptly notify all its members or subscribers affected by the hearing or order. Notice to a rating organization of a hearing or order shall be deemed notice to its members or subscribers.

(g) No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.

(1) On an application for personal motor vehicle insurance where the applicant has applied for collision or comprehensive coverage, the applicant shall be allowed to identify a lienholder listed on the certificate of title for the motor vehicle described in the application.

(2) On an application for property insurance on real property, the applicant shall be allowed to identify a mortgagee listed on a mortgage for the real property described in the application.

(h) The commissioner may adopt rules and regulations to allow suspension or modification of the requirement of filing and approval of rates as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used.

(i) Except for workers compensation and employer's liability line, the following categories of commercial lines risks are considered special risks which are exempt from the filing requirements in this section: (1) Risks that are written on an excess or umbrella basis; (2) commercial risks, or portions thereof, that are not rated according to manuals, rating plans, or schedules including "a" rates; (3) large risks; and (4) special risks designated by the commissioner, including but not limited to risks insured under highly protected risks rating plans, commercial aviation, credit insurance, boiler and machinery, inland marine, fidelity, surety and guarantee bond insurance risks.

(j) For the purposes of this subsection, "large risk" means: (1) An insured that has total insured property values of \$5,000,000 or more; (2) an insured that has total annual gross revenues of \$10,000,000 or more; or (3) an insured that has in the preceding calendar year a total paid premium of \$50,000 or more for property insurance, \$50,000 or more for general liability insurance, or \$100,000 or more for multiple lines policies.

(k) The exemption for any large risk contained in subsection ~~(h)~~ (i) shall not apply to workers compensation and employer's liability insurance, insurance purchasing groups, and the basic coverage required by K.S.A. 40-3401 et seq., and amendments thereto.

(l) Underwriting files, premium, loss and expense statistics, financial and other records pertaining to special risks written by any insurer shall be maintained by the insurer and shall be subject to examination by the commissioner.

(m) (1) Any entity that purchases a workers compensation policy for the covered employees of more than one employer pursuant to a shared employment relationship with each employer must purchase the workers compensation policy on a separate multiple coordinate policy basis. Such workers compensation policies must be issued pursuant to K.S.A. 44-501 et seq., and amendments thereto, from an insurer holding a certificate of authority to do business in this state and providing workers compensation coverage.

(2) The commissioner of insurance may allow an insurer to issue coverage through a master policy if the commissioner is satisfied that the insurer is able to track and report individual client experience to the advisory organization in an acceptable fashion. All such master policies must be filed with the commissioner for prior approval.

(3) The commissioner of insurance shall be authorized to adopt such rules and regulations as are reasonable and necessary to carry out the purpose and the provisions of this subsection.

Sec. 8. K.S.A. 40-3203 is hereby amended to read as follows: 40-3203. (a) Except as otherwise provided by this act, it shall be unlawful for any person to provide health care services in the manner prescribed in ~~subsection (n) or subsection (r) of K.S.A. 40-3202(n) or (r)~~, and amendments thereto, without first obtaining a certificate of authority from the commissioner.

(b) Applications for a certificate of authority shall be made in the form required by the commissioner and shall be verified by an officer or authorized representative of the applicant and shall set forth or be accompanied by:

(1) A copy of the basic organizational documents of the applicant such as articles of incorporation, partnership agreements, trust agreements or other applicable documents;

(2) a copy of the bylaws, regulations or similar document, if any, regulating the conduct of the internal affairs of the applicant;

(3) a list of the names, addresses, official capacity with the organization and biographical information for all of the persons who are to be responsible for the conduct of its affairs, including all members of the governing body, the officers and directors in the case of a corporation and the partners or members in the case of a partnership or corporation;

(4) a sample or representative copy of any contract or agreement made or to be made between the health maintenance organization or medicare provider organization and any class of providers and a copy of any contract made or agreement made or to be made, excluding individual employment contracts or agreements, between third party administrators, marketing consultants or persons listed in subsection (3) and the health maintenance organization or medicare provider organization;

(5) a statement generally describing the organization, its enrollment process, its operation, its quality assurance mechanism, its internal grievance procedures, in the case of a health maintenance organization the methods it proposes to use to offer its enrollees an opportunity to participate in matters of policy and operation, the geographic area or areas to be served, the location and hours of operation of the facilities at which ~~health care~~ *healthcare* services will be regularly available to enrollees in the case of staff and group practices, the type and specialty of ~~health care~~ *healthcare* personnel and the number of personnel in each specialty category engaged to provide ~~health care~~ *healthcare* services in the case of staff and group practices; and a records system providing documentation of utilization rates for enrollees. In cases other than staff and group practices, the organization shall provide a list of names, addresses and telephone numbers of providers by specialty;

(6) copies of all contract forms the organization proposes to offer enrollees together with a table of rates to be charged;

(7) the following statements of the fiscal soundness of the organization:

(A) Descriptions of financing arrangements for operational deficits and for developmental costs if operational one year or less;

(B) a copy of the most recent unaudited financial statements of the health maintenance organization or medicare provider organization;

(C) financial projections in conformity with statutory accounting practices prescribed or otherwise permitted by the department of insurance of the state of domicile for a minimum of three years ~~from the anticipated date of certification and on a monthly basis from the date of certification through one year from the date of application.~~ If the health maintenance organization or medicare provider organization is expected to incur a deficit, projections shall be made for each deficit year and for one year thereafter, *up to a maximum of five years.* All financial projections shall include:

(i) ~~Monthly statements of revenue and expense for the first year on a gross dollar as well as per member per month basis, with quarters consistent with standard calendar year quarters;~~

~~(ii) quarterly~~ Statements of revenue and expense for each ~~subsequent~~ year;

~~(iii)~~ (ii) a ~~quarterly~~ balance sheet *for each year*; and

~~(iv)~~ (iii) a statement and justification of assumptions;

(8) a description of the procedure to be utilized by a health maintenance organization or medicare provider organization to provide for:

(A) Offering enrollees an opportunity to participate in matters of policy and operation of a health maintenance organization;

(B) monitoring of the quality of care provided by such organization including, as a minimum, peer review; and

(C) resolving complaints and grievances initiated by enrollees;

(9) a written irrevocable consent duly executed by such applicant, if the applicant is a nonresident, appointing the commissioner as the person upon whom lawful process in any legal action against such organization on any cause of action arising in this state may be served and that such service of process shall be valid and binding in the same extent as if personal service had been had and obtained upon said nonresident in this state;

(10) a plan, in the case of group or staff practices, that will provide for maintaining a medical records system ~~which~~ *that* is adequate to provide an accurate documentation of utilization by every enrollee, such system to identify clearly, at a minimum, each patient by name, age and sex and to indicate clearly the services provided, when, where, and by whom, the diagnosis, treatment and drug therapy, and in all other cases, evidence that contracts with providers require that similar medical records systems be in place;

(11) evidence of adequate insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishing of ~~health care~~ *healthcare*;

(12) such other information as may be required by the commissioner to make the determinations required by K.S.A. 40-3204, and amendments thereto; and

(13) in lieu of any of the application requirements imposed by this section on a medicare provider organization, the commissioner may accept any report or application filed by the medicare provider organization with the appropriate examining agency or official of another state or agency of the federal government.

(c) The commissioner may promulgate rules and regulations the commissioner deems necessary to the proper administration of this act to require a health maintenance organization or medicare provider organization, subsequent to receiving its certificate of authority to submit the information, modifications or amendments to the items described in subsection (b) to the commissioner prior to the effectuation of the modification or amendment or to require the health maintenance organization to indicate the modifications to the commissioner. Any modification or amendment for which the approval of the commissioner is required shall be deemed approved unless disapproved within 30 days, except the commissioner may postpone the action for such further time, not exceeding an additional 30 days, as necessary for proper consideration.

Sec. 9. K.S.A. 40-201, 40-216, 40-241, 40-247, 40-2,125, 40-955 and 40-3203 and K.S.A. 2022 Supp. 40-2c01 are hereby repealed.

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

CHAPTER 42

SENATE BILL No. 85

AN ACT concerning insurance; relating to the licensing and registration of limited lines travel insurance producers and travel retailers; relating to insurance for state employees; enacting the Kansas travel insurance act; establishing a premium tax for travel insurers; regulating the sale and marketing of travel insurance and travel protection plans; providing for travel administrators; establishing standards for travel insurance policies; eliminating the requirement that the Kansas state employee health care commission offer long-term care insurance and indemnity insurance; amending K.S.A. 40-4903 and 75-6513 and repealing the existing sections; also repealing K.S.A. 75-6521, 75-6522 and 75-6523.

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

New Section 1. (a) Sections 1 through 10, and amendments thereto, shall be known and may be cited as the Kansas travel insurance act.

(b) The Kansas travel insurance act shall be a part of and supplemental to article 2 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

New Sec. 2. (a) The purpose of this act is to promote the public welfare by establishing a comprehensive legal framework within which travel insurance may be sold.

(b) The requirements of this act shall apply to travel insurance that covers any resident of this state, that is sold, solicited, negotiated or offered in this state and policies and certificates that are delivered or issued for delivery in this state. This act shall not apply to cancellation fee waivers or travel assistance services except as expressly provided in this act.

(c) All other applicable provisions of the insurance laws of this state shall apply to travel insurance except that the specific provisions of this act shall supersede any general provisions of law that would otherwise be applicable to travel insurance.

New Sec. 3. As used in Kansas travel insurance act:

(a) "Act" means the Kansas travel insurance act.

(b) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(c) "Blanket travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

(d) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying

travel contract with or without regard to the reason for the cancellation or form of reimbursement. "Cancellation fee waiver" is not insurance.

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

(f) "Delivery" means handing fulfillment materials to the policyholder or certificate holder or sending such fulfillment materials to the policyholder or certificate holder using United States mail or electronic means.

(g) "Eligible group" means two or more persons who are engaged in a common enterprise, or have an economic, educational or social affinity or relationship, including but not limited to, the following:

(1) (A) Any entity engaged in the business of providing travel or travel services, including but not limited to: (i) Tour operators; (ii) lodging providers; (iii) vacation property owners; (iv) hotels and resorts; (v) travel clubs; (vi) travel agencies; (vii) property managers; (viii) cultural exchange programs; and (ix) common carriers or the operator, owner or lessor of a means of transportation of passengers, including, but not limited to, airlines, cruise lines, railroads, steamship companies and public bus carriers;

(B) With regard to any particular travel or type of travel or travelers, all members or customers of the eligible group shall have a common exposure to risk attendant to such travel;

(2) colleges, schools or other institutions of learning, covering students, teachers, employees or volunteers;

(3) employers covering groups of employees, volunteers, contractors, boards of directors, dependents or guests;

(4) sports teams, camps or sponsors thereof, covering participants, members, campers, employees, officials, supervisors or volunteers;

(5) religious, charitable, recreational, educational or civic organizations or branches thereof, covering groups of members, participants or volunteers;

(6) financial institutions or financial institution vendors or parent holding companies, trustees or agents of, or designated by, one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors or purchasers;

(7) incorporated or unincorporated associations, including labor unions, that have a common interest, constitution and bylaws, and are organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members;

(8) trusts or trustees of a fund established, created or maintained for the benefit of and covering members, employees or customers, subject to the commissioner permitting the use of a trust and the premium tax provisions described in section 5, and amendments thereto, of one or more associations described in paragraph (7);

(9) entertainment production companies covering participants, volunteers, audience members, contestants or workers;

(10) volunteer fire departments, ambulances, rescues, police, courts or any first aid, civil defense or other such volunteer groups;

(11) preschools, daycare institutions for children or adults and senior citizen clubs;

(12) automobile or truck rental or leasing companies covering groups of individuals who may become renters, lessees or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner or lessor of a means of transportation or the automobile or truck rental or leasing company, shall be the policyholder under a policy to which this section applies; or

(13) any other group whereby the commissioner has determined that the members are engaged in a common enterprise, or have an economic, educational or social affinity or relationship and that issuance of the policy would not be contrary to the public interest.

(h) “Fulfillment materials” means documentation sent to the purchaser of a travel protection plan that confirms the purchase and provides details of the coverage and assistance of the travel protection plan.

(i) “Group travel insurance” means travel insurance issued to any eligible group.

(j) “Limited lines travel insurance producer” means a:

(1) Licensed managing general agent or third-party administrator;

(2) licensed insurance producer, including a limited lines producer; or

(3) travel administrator.

(k) “Offer and disseminate” means providing general information including a description of the coverage and price, as well as processing of the application and collecting premiums.

(l) “Primary certificate holder” means an individual person who elects and purchases travel insurance under a group policy.

(m) “Primary policyholder” means an individual person who elects and purchases individual travel insurance.

(n) “Travel administrator” means a person who directly or indirectly underwrites, collects charges, collateral or premiums from, or adjusts or settles claims on, residents of this state in connection with travel insurance. “Travel administrator” does not include the following:

(1) An individual working for a travel administrator to the extent that the person’s activities are subject to the supervision and control of the travel administrator;

(2) an insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer’s license;

(3) a travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this act;

(4) an individual adjusting or settling claims in the normal course of such individual's practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with insurance coverage; or

(5) a business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

(o) "Travel assistance services" means non-insurance services for which the consumer is not indemnified based on a fortuitous event and where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to:

- (1) Security advisories;
- (2) destination information;
- (3) vaccination and immunization information services;
- (4) travel reservation services;
- (5) entertainment;
- (6) activity and event planning;
- (7) translation assistance;
- (8) emergency messaging;
- (9) international legal and medical referrals;
- (10) medical case monitoring;
- (11) coordination of transportation arrangements;
- (12) emergency cash transfer assistance;
- (13) medical prescription replacement assistance;
- (14) passport and travel document replacement assistance;
- (15) lost luggage assistance;
- (16) concierge services; and
- (17) any other service that is furnished in connection with planned travel. Travel assistance services are not insurance and are not related to insurance.

(p) (1) "Travel insurance" means insurance coverage for personal risks incidental to planned travel, including:

- (A) Interruption or cancellation of a trip or event;
- (B) loss of baggage or personal effects;
- (C) damages to accommodations or rental vehicles;
- (D) sickness, accident, disability or death occurring during travel;
- (E) emergency evacuation;
- (F) repatriation of remains; or
- (G) any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner.

(2) "Travel insurance" does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting

longer than six months, including those working or residing overseas as an expatriate or any other product that requires a specific insurance producer license.

(q) “Travel protection plans” means plans that provide one or more of the following:

- (1) Travel insurance;
- (2) travel assistance services; or
- (3) cancellation fee waivers.

(r) “Travel retailer” means a business entity that makes, arranges or offers planned travel and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

New Sec. 4. (a) The commissioner may issue a limited lines travel insurance producer license to an individual or business entity that has filed with the commissioner an application for a limited lines travel insurance producer license in a form and manner prescribed by the commissioner. Such limited lines travel insurance producer shall be licensed to sell, solicit or negotiate travel insurance through a licensed insurer. No person shall act as a limited lines travel insurance producer or travel insurance retailer unless properly licensed or registered, respectively.

(b) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

(1) The limited lines travel insurance producer or travel retailer provides to purchasers of travel insurance:

(A) A description of the material terms or the actual material terms of the insurance coverage;

(B) a description of the process for filing a claim;

(C) a description of the review or cancellation process for the travel insurance policy; and

(D) the identity and contact information of the insurer and limited lines travel insurance producer;

(2) the limited lines travel insurance producer shall:

(A) At the time of licensure, have established a register, on a form prescribed by the commissioner, of each travel retailer that offers travel insurance on the limited lines travel insurance producer’s behalf. The register shall be maintained and updated by the limited lines travel insurance producer and include the name, address and contact information of the travel retailer and an officer or person who directs or controls the operations of such travel retailer and the federal tax identification number of such travel retailer;

(B) submit such register to the insurance department upon reasonable request; and

(C) certify that the travel retailer registered complies with 18 U.S.C. § 1033. The grounds for the suspension, revocation and penalties applicable to resident insurance producers under K.S.A. 40-4909, and amendments thereto, shall be applicable to limited lines travel insurance producers and travel retailers;

(3) the limited lines travel insurance producer has designated one of its employees, who is a licensed individual producer, as a designated responsible producer responsible for the compliance with the travel insurance laws and regulations applicable to the limited lines travel insurance producer and its registrants;

(4) the designated responsible producer, president, secretary, treasurer and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer;

(5) the limited lines travel insurance producer has paid all applicable licensing fees as required by state law; and

(6) the limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which is subject, at the discretion of the commissioner, to review and approval. The training material shall include, but not be limited to, adequate instructions on the types of insurance offered, ethical sales practices and required disclosures to prospective customers.

(c) Any travel retailer offering or disseminating travel insurance shall make available to each prospective purchaser such brochures or other written materials as have been approved by the travel insurer. Such materials shall include, but not be limited to, the following information:

(1) The identity and contact information of the insurer and the limited lines travel insurance producer;

(2) an explanation that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; and

(3) an explanation that an unlicensed travel retailer is permitted to provide only general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(d) A travel retailer employee or authorized representative, who is not licensed as an insurance producer shall not:

(1) Evaluate or interpret the technical terms, benefits and conditions of the offered travel insurance coverage;

(2) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(3) hold such travel retailer employee or authorized representative out as a licensed insurer, licensed producer or insurance expert.

(e) Notwithstanding any other provision in law, a travel retailer whose insurance-related activities and the activities of the employees and authorized representatives of such travel retailer are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer that meets the conditions stated in this act is authorized to receive related compensation, upon registration by the limited lines travel insurance producer pursuant to subsection (b)(2).

(f) As the insurer's designee, the limited lines travel insurance producer shall be responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this act.

New Sec. 5. (a) A travel insurer shall pay premium tax, pursuant to K.S.A. 40-252, and amendments thereto, on travel insurance premiums paid by any of the following:

(1) An individual primary policyholder who is a resident of this state;

(2) a primary certificate-holder who is a resident of this state and who elects coverage under a group travel insurance policy; or

(3) a blanket travel insurance policyholder that is a resident of or has its principal place of business or the principal place of business of an affiliate or subsidiary in this state that has purchased blanket travel insurance for eligible blanket group members, subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(b) A travel insurer shall:

(1) Document the state of residence or principal place of business of each policyholder or certificate holder described in subsection (a); and

(2) report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

New Sec. 6. Travel protection plans may combine the features that such travel protection plan offers in this state for one price if:

(a) The travel protection plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes travel insurance, travel assistance services and cancellation fee waivers as applicable and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and

(b) the fulfillment materials:

- (1) Describe and delineate the travel insurance, travel assistance services and cancellation fee waivers in the travel protection plan; and
- (2) include the travel insurance disclosures and contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

New Sec. 7. (a) Each person offering travel insurance to residents of this state shall be subject to the unfair trade practice law, K.S.A. 40-2401 et seq., and amendments thereto, except as otherwise provided in this section. In the event of a conflict between this act and other provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this act shall control.

(b) Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under the unfair trade practice law, K.S.A. 40-2401 et seq., and amendments thereto.

(c) Each person that offers travel insurance policies or travel protection plans shall comply with the following:

(1) All documents provided to a consumer prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials and marketing materials, forms, endorsements, policies, rate filings and certificates of insurance, shall be consistent with the travel insurance policy itself, including, but not limited to, forms, endorsements, policies, rate filings and certificates of insurance;

(2) for each travel insurance policy or certificate that contains pre-existing condition exclusions, information and an opportunity to learn more about such pre-existing condition exclusions shall be provided to the consumer at any time prior to the time of purchase and in the coverage's fulfillment materials;

(3) the fulfillment materials and the information described in section 4(b)(1), and amendments thereto, shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a travel protection plan. Unless the policyholder or certificate holder has either started a covered trip or filed a claim under the travel insurance coverage, such policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(A) 15 days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

(B) 10 days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail;

(4) the company shall disclose in the policy documentation and ful-

fillment materials whether the travel insurance is primary or secondary to other applicable coverage; and

(5) where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

(d) No person offering, soliciting or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using a negative option or opt out, that would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(f) Where the jurisdiction of a consumer's destination requires insurance coverage, it shall not be an unfair trade practice to require that such consumer choose between the following options as a condition of purchasing a trip or travel package:

(1) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(2) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

New Sec. 8. (a) Notwithstanding any other provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, no person shall act or represent itself as a travel administrator for travel insurance in this state unless such person:

(1) Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license;

(2) holds a valid managing general agent license in this state; or

(3) holds a valid third-party administrator license in this state.

(b) An insurer shall be responsible for the acts of a travel administrator that administers travel insurance underwritten by the insurer and shall ensure that the travel administrator maintains all books and records relevant to the insurer be made available by the travel administrator to the commissioner, upon request.

New Sec. 9. (a) Notwithstanding any other provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance.

(b) Travel insurance may be in the form of an individual, group or blanket policy.

(c) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet underwriting standards of the state for inland marine insurance.

New Sec. 10. The commissioner may adopt rules and regulations to implement and enforce the provisions of this act.

Sec. 11. K.S.A. 40-4903 is hereby amended to read as follows: 40-4903. (a) Unless denied licensure pursuant to K.S.A. 40-4909, and amendments thereto, any person who meets the requirements of K.S.A. 40-4905, and amendments thereto, shall be issued an insurance agent license. An insurance agent may receive qualifications for a license in one or more of the following lines of authority:

(1) Life: Insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness: Insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

(3) Property: Insurance coverage for the direct or consequential loss or damage to property of every kind.

(4) Casualty: Insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

(5) Variable life and variable annuity products: Insurance coverage provided under variable life insurance contracts, variable annuities or any other life insurance or annuity product that reflects the investment experience of a separate account.

(6) Personal lines: Property and casualty insurance coverage sold primarily to an individual or family for noncommercial purposes.

(7) Credit: Limited line credit insurance.

(8) Crop insurance: Limited line insurance for damage to crops from unfavorable weather conditions, fire, lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or any other peril subsidized by the federal crop insurance corporation, including multi-peril crop insurance.

(9) Title insurance: Limited line insurance that insures titles to property against loss by reason of defective titles or encumbrances.

(10) (A) Travel insurance: Limited line insurance for personal risks incidental to planned travel, including, but not limited to:

~~(A)~~(i) Interruption or cancellation of trip or event;

~~(B)~~(ii) loss of baggage or personal effects;

~~(C)~~(iii) damages to accommodations or rental vehicles; ~~or~~

~~(D)~~(iv) sickness, accident, disability or death occurring during travel.

(v) *emergency evacuation;*
(vi) *repatriation of remains; or*
(vii) *any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner.*

(B) Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, for example, persons working overseas including military personnel deployed overseas.

(11) Pre-need funeral insurance: Limited line insurance that allows for the purchase of a life insurance or annuity contract by or on behalf of the insured solely to fund a pre-need contract or arrangement with a funeral home for specific services.

(12) Bail bond insurance: Limited line insurance that provides surety for a monetary guarantee that an individual released from jail will be present in court at an appointed time.

(13) Self-service storage unit insurance: Limited line insurance relating to the rental of self-service storage units, including:

(A) Personal effects insurance that provides coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects that occurs at the same facility during the rental period; and

(B) any other coverage that the commissioner may approve as meaningful and appropriate in connection with the rental of storage units. Such insurance may only be issued in accordance with K.S.A. 40-241, and amendments thereto.

(14) Any other line of insurance permitted under the provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations promulgated thereunder.

(b) Unless suspended, revoked or refused renewal pursuant to K.S.A. 40-4909, and amendments thereto, an insurance agent license shall remain in effect as long as:

(1) Education requirements for resident individual agents are met by such insurance agent's biennial due date;

(2) such insurance agent submits an application for renewal on a form prescribed by the commissioner; and

(3) ~~on and after January 1, 2022,~~ such insurance agent pays a biennial renewal application fee of \$4.

~~(c) (1) (A) On and after July 1, 2001, through December 31, 2021, each licensed insurance agent who is an individual and holds a property or casualty qualification, or both, or a personal lines qualification shall biennially obtain a minimum of 12 C.E.C.s in courses certified as property and casualty that includes at least one hour of instruction in insurance ethics, and may include regulatory compliance.~~

~~(B) On and after January 1, 2022,~~ Except as provided in paragraphs ~~(3) (1)~~ through ~~(6) (4)~~, each licensed insurance agent shall biennially obtain a minimum of 18 C.E.C.s that include at least three hours of instruction in insurance ethics that also may include regulatory compliance.

~~(2) On and after July 1, 2001, through December 31, 2021, each licensed insurance agent who is an individual and holds a life, accident and health, or variable contracts qualification, or any combination thereof, shall biennially obtain a minimum of 12 C.E.C.s in courses certified as life, accident and health, or variable contracts that include at least one hour of instruction in insurance ethics and may include regulatory compliance.~~

~~(3)(1)~~ Each licensed insurance agent who is an individual and holds only a crop qualification shall biennially obtain a minimum of two C.E.C.s in courses certified as crop C.E.C.s under the property and casualty category.

~~(4)(2)~~ Each licensed insurance agent who is an individual and is licensed only for title insurance shall biennially obtain a minimum of four C.E.C.s in courses certified by the board of abstract examiners as title C.E.C.s under the property and casualty category.

~~(5)(3)~~ Each licensed insurance agent who is an individual and holds a life insurance license solely for the purpose of selling pre-need funeral insurance or annuity products shall file a report on or before such agent's biennial due date affirming that such agent transacted no other insurance business during the period covered by the report and shall provide certification from an officer of each insurance company that has appointed such agent that the agent transacted no other insurance business during the period covered by the report. Agents who have offered to sell or sold only pre-need funeral insurance are exempt from the requirement to obtain C.E.C.s.

~~(6)(4)~~ Each licensed insurance agent who is an individual and holds only a bail bond, self-service storage unit or travel insurance qualification is exempt from the requirement to obtain C.E.C.s.

~~(7)(5)~~ (A) A licensed insurance agent who is a member of the national guard or any reserve component of the armed services of the United States who serves on active duty for at least 90 consecutive days shall be exempt from the requirement to obtain C.E.C.s during the time that such insurance agent is on active duty.

(B) The commissioner shall grant an extension to any licensed insurance agent described in subparagraph (A) until the biennial due date that occurs in the year next succeeding the year in which such active duty ceases.

(d) An instructor of an approved subject shall be entitled to the same C.E.C. as a student completing the study.

(e) (1) An individual insurance agent who has been licensed for more than one year, on or before such insurance agent's biennial due date, shall file a report with the commissioner certifying that such insurance agent has met the continuing education requirements for the previous biennium ending on such insurance agent's biennial due date. Each individual insurance agent shall maintain a record of all courses attended together with a certificate of attendance for the remainder of the biennium in which the courses were attended and the entire next succeeding biennium.

(2) If the required report showing proof of continuing education completion is not received by the commissioner by the individual insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall be suspended automatically for a period of 90 calendar days or until such time as the producer satisfactorily demonstrates completion of the continuing education requirement whichever is sooner. In addition, the commissioner shall assess a penalty of \$100 for each license suspended. If such insurance agent fails to furnish to the commissioner the required proof of continuing education completion and the monetary penalty within 90 calendar days of such insurance agent's biennial due date, such individual insurance agent's qualification and each and every corresponding license shall expire on such insurance agent's biennial due date. If after more than three but less than 12 months from the date the license expired, the insurance agent wants to reinstate such insurance agent's license, such individual shall provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. If after more than 12 months from the date an insurance agent's license has expired, such insurance agent wants to reinstate such insurance agent's license, such individual shall apply for an insurance agent's license, provide the required proof of continuing education completion and pay a reinstatement fee in the amount of \$100 for each license suspended. Upon receipt of a written application from such insurance agent claiming extreme hardship, the commissioner may waive any penalty imposed under this subsection.

(3) On and after the effective date of this act, any applicant for an individual insurance agent's license who previously held a license that expires on or after June 30, 2001, because of failure to meet continuing education requirements and who seeks to be relicensed shall provide evidence that appropriate C.E.C.s have been completed for the prior biennium.

(4) Upon receipt of a written application from an individual insurance agent, the commissioner, in cases involving medical hardship or military service, may extend the time within which to fulfill the minimum continuing educational requirements for a period of not to exceed 180 days.

(5) This section shall not apply to any inactive insurance agent during the period of such inactivity. For the purposes of this paragraph, "inactive

period” or “period of inactivity” means a continuous period of time of not more than four years starting from the date inactive status is granted by the commissioner. Before returning to active status, such inactive insurance agent shall:

(A) File a report with the commissioner certifying that such agent has met the continuing education requirement; and

(B) pay the renewal fee. If the required proof of continuing education completion and the renewal fee is not furnished at the end of the inactive period, such individual insurance agent’s qualification and each and every corresponding license shall expire at the end of the period of inactivity. For issuance of a new license, the individual shall apply for a license and pass the required examination.

(6) Any individual who allows such individual’s insurance agent license in this state and all other states in which such individual is licensed as an insurance agent to expire for a period of four or more consecutive years, shall apply for a new insurance agent license and pass the required examination.

(f) (1) Each course, program of study, or subject shall be submitted to and certified by the commissioner in order to qualify for purposes of continuing education.

(2) Each request for certification of any course, program of study or subject shall contain the following information:

(A) The name of the provider or provider organization;

(B) the title of such course, program of study or subject;

(C) the date the course, program of study or subject will be offered;

(D) the location where the course, program of study or subject will be offered;

(E) an outline of each course, program of study or subject including a schedule of times when such material will be presented;

(F) the names and qualifications of instructors;

(G) the number of C.E.C.s requested;

(H) a nonrefundable C.E.C. qualification fee in the amount of \$50 per course, program of study or subject or \$250 per year for all courses, programs of study or subjects submitted by a specific provider or provider organization; and

(I) a nonrefundable annual provider fee of \$100.

(3) Upon receipt of such information, the commissioner shall grant or deny certification of any submitted course, program of study or subject as an approved subject, program of study or course and indicate the number of C.E.C.s that will be recognized for each approved course, program of study or subject. Each approved course, program of study or subject shall be assigned by the commissioner to one or both of the following classes:

(A) Property and casualty; or

(B) life insurance, including annuity and variable contracts, and accident and health insurance.

(4) Each course, program of study or subject shall have a value of at least one C.E.C.

(5) (A) Each provider seeking approval of a course, program of study or subject for continuing education credit shall issue or cause to be issued to each person who attends a course, program of study or subject offered by such provider a certificate of attendance. The certificate shall be signed by either the instructor who presents the course, program of study or course or such provider's authorized representative. Each provider shall maintain a list of all individuals who attend courses offered by such provider for continuing education credit for the remainder of the biennium in which the courses are offered and the entire next succeeding biennium.

(B) The commissioner shall accept, without substantive review, any course, program of study or subject submitted by a provider that has been approved by the insurance supervisory authority of any other state or territory accredited by the NAIC. The commissioner may disapprove any individual instructor or provider who has been the subject of disciplinary proceedings or who has otherwise failed to comply with any other state's or territory's laws or regulations.

(6) The commissioner may grant or approve any specific course, program of study or course that has appropriate merit, such as any course, programs of study or course with broad national or regional recognition, without receiving any request for certification. The fee prescribed by subsection (f) (2) shall not apply to any approval granted pursuant to this provision.

(7) The C.E.C. value assigned to any course, program of study or subject, other than a correspondence course, computer based training, interactive internet study training or other course pursued by independent study, shall in no way be contingent upon passage or satisfactory completion of any examination given in connection with such course, program of study or subject. The commissioner shall establish, by rules and regulations criteria for determining acceptability of any method used for verification of the completion of each stage of any computer based or interactive internet study training. Completion of any computer based training or interactive internet study training shall be verified in accordance with a method approved by the commissioner.

(g) Upon request, the commissioner shall provide a list of all approved continuing education courses currently available to the public.

(h) An individual insurance agent who independently studies an insurance course, program of study or subject that is not an agent's examination approved by the commissioner shall receive credit for the C.E.C.s assigned by the commissioner as recognition for the approved subject. No other credit shall be given for independent study.

(i) Any licensed individual insurance agent who is unable to comply with license renewal procedures due to military service or some other extenuating circumstances may request a waiver of those procedures from the commissioner. Such agent may also request from the commissioner a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Sec. 12. K.S.A. 75-6513 is hereby amended to read as follows: 75-6513. (a) ~~The health care benefits program fund is hereby abolished and any reference to the health care benefits program fund in any statute, contract or other document shall be deemed to be a reference to the cafeteria benefits fund established by this section. There is hereby created in the state treasury the cafeteria benefits fund. On the effective date of this act, the director of accounts and reports shall transfer all moneys in the health care benefits program fund to the cafeteria benefits fund and all liabilities of the health care benefits program fund are hereby transferred to and imposed upon the cafeteria benefits fund.~~

(b) ~~The cost of the state health care~~ *healthcare* benefits program, including the costs of administering the program, shall be paid from the cafeteria benefits fund. ~~The cost of the long-term care insurance, including the costs of administration, purchased pursuant to K.S.A. 75-6523, and amendments thereto, shall be paid from the cafeteria benefits fund. The Kansas state employees health care commission shall remit all moneys received by or for the commission pursuant to the state health care~~ *healthcare* benefits program ~~or from the purchase of long-term care insurance 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 cafeteria benefits fund.~~

(c) Each state agency shall pay into the cafeteria benefits fund amounts specified by the secretary of administration to pay for costs of administering the cafeteria plan as provided by law, including the costs of benefits provided thereunder.

(d) All expenditures from the cafeteria benefits fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by: (1) The chairperson of the Kansas state employees health care commission or by a person or persons designated by the chairperson, for expenditures relating to the ~~health care~~ *state healthcare* benefits program; and (2) the secretary of administration or by a person or persons designated by the secretary, for expenditures relating to administering the cafeteria plan as provided by law, including the costs of benefits provided thereunder. The director of accounts and reports shall issue warrants pursuant to vouchers approved under this section for payments from the cafeteria benefits fund

notwithstanding the fact that claims for such payments were not submitted or processed for payment from money appropriated for the fiscal year in which the fund first became liable to make such payments.

Sec. 13. K.S.A. 40-4903, 75-6513, 75-6521, 75-6522 and 75-6523 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after January 1, 2024, and its publication in the statute book.

Approved April 19, 2023.

CHAPTER 43

HOUSE BILL No. 2039
(Amends Chapter 7)

AN ACT concerning wildlife and parks; relating to hunting and fishing licenses; exempting disabled veterans from certain requirements; relating to recreation; designating Lehigh Portland state park as part of the state park system; amending K.S.A. 32-837, 32-906, 32-919 and 32-988 and repealing the existing sections.

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

New Section 1. (a) Subject to the provisions of K.S.A. 32-920, and amendments thereto, the secretary of wildlife and parks or the secretary's designee shall issue, free of charge, a permanent license to hunt and fish to any person residing in the state who submits to the secretary satisfactory proof that the person is a disabled veteran. Any such person hunting or fishing in this state shall be subject to the provisions of all rules and regulations relating to hunting or fishing.

(b) As used in this section, "disabled veteran" means a person who:

- (1) Was a member of the armed services;
- (2) has separated from the armed services under honorable conditions; and
- (3) has a disability certified by the Kansas commission on veterans affairs office as being service-connected and such service-connected disability is equal or greater than 30%.

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

(26) Flint Hills trail state park in Miami, Franklin, Osage, Lyon, Morris and Dickinson counties; ~~and~~ (27) Little Jerusalem Badlands state park in Logan county; *and* (28) *Lehigh Portland state park in Allen county.*

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

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

(d) The requirements found in K.S.A. 65-171d(j)(2), and amendments thereto, shall not apply to subsection (a)(25) or (a)(26).

(e) For any state park listed in subsection (a) containing a recreational trail created pursuant to 16 U.S.C. § 1247(d), the Kansas department of wildlife; *and parks and tourism* shall carry out the duties listed in K.S.A. 58-3212(a)(1) through (a)(11), and amendments thereto.

Sec. 3. K.S.A. 32-906 is hereby amended to read as follows: 32-906.

(a) Except as otherwise provided by law or rules and regulations of the secretary *of wildlife and parks*, a valid Kansas fishing license is required to fish or to take any bullfrog in this state.

(b) The provisions of subsection (a) do not apply to fishing by:

(1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;

(2) a person who is less than 16 years of age;

(3) a resident of this state who is 75 years of age or ~~more~~ *older*;

(4) a person fishing in a private water fishing impoundment unless waived pursuant to K.S.A. 32-975, and amendments thereto;

(5) a resident of an adult care home, as defined by K.S.A. 39-923, and amendments thereto, licensed by the secretary ~~of~~ *for aging and disability services*;

(6) a person on dates designated pursuant to subsection (f);

(7) a person fishing under a valid institutional group fishing license issued pursuant to subsection (g); or

(8) a participant in a fishing clinic sponsored or cosponsored by the department, during the period of time that the fishing clinic is being conducted.

(c) The fee for a fishing license shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid throughout the state.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid from the date of issuance and expires on December 31 following its issuance, except that the secretary may issue a:

(1) Permanent license pursuant to K.S.A. 32-929, and amendments thereto;

(2) lifetime license pursuant to K.S.A. 32-930, and amendments thereto;

(3) nonresident fishing license valid for a period of five days; and

(4) resident or nonresident fishing license valid for a period of 24 hours.

(f) The secretary may designate by resolution two days each calendar year during which persons may fish by legal means without having a valid fishing license.

(g) (1) The secretary shall issue an annual institutional group fishing license to each facility operating under the jurisdiction of or licensed by the secretary for aging and disability services and to any veterans administration medical center in the state of Kansas upon application by such facility or center to the secretary of wildlife, *and* parks ~~and tourism~~ for such license.

(2) All applications for facilities under the jurisdiction of the secretary for aging and disability services shall be made with the approval of the secretary for aging and disability services and shall provide such information as the secretary of wildlife, *and* parks ~~and tourism~~ requires. All applications for any veterans administration medical center shall be made with the approval of the director of such facility and shall provide such information as the secretary of wildlife, *and* parks ~~and tourism~~ requires. Persons who have been admitted to and are currently residing at the facility or center, not to exceed 20 at any one time, may fish under an institutional group fishing license within the state while on a group trip, group outing or other group activity which is supervised by the facility or center. Persons fishing under an institutional group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and to all rules and regulations relating to fishing.

(3) The staff personnel of the facility or center supervising the group trip, group outing or other group activity shall have in their possession the institutional license when engaged in supervising any activity requiring the license. Such staff personnel may assist group members in all aspects of their fishing activity.

(h) (1) The secretary may issue a special nonprofit group fishing license to any community, civic or charitable organization which is organized as a not-for-profit corporation, for use by such community, civic or charitable organization for the sole purpose of conducting group fishing activities for handicapped or developmentally disabled individuals. All applications for a special nonprofit group fishing license shall be made to the secretary or the secretary's designee and shall provide such information as required by the secretary.

(2) ~~Handicapped or developmentally disabled individuals~~ *Persons with a physical or developmental disability*, not to exceed 20 at any one time, may fish under a special nonprofit group fishing license while on a group trip, outing or activity which is supervised by the community, civic or charitable organization. Individuals fishing under a special nonprofit group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and rules and regulations relating to fishing.

(3) The staff personnel of the community, civic or charitable organization supervising the group trip, outing or activity shall have in their possession the special nonprofit group fishing license when engaged in supervising any activity requiring the special nonprofit group fishing license. Such staff personnel may assist group members in all aspects of their fishing activity.

~~(i) The provisions of paragraph (b)(3) shall expire on June 30, 2020.~~

Sec. 4. K.S.A. 32-919 is hereby amended to read as follows: 32-919.

(a) Except as otherwise provided by law or rules and regulations of the secretary, a valid Kansas hunting license is required to hunt in this state.

(b) The provisions of subsection (a) do not apply to hunting by:

(1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;

(2) a resident of this state who is less than 16 years of age;

(3) a resident of this state who is 75 years of age or ~~more~~ *older*;

(4) a nonresident who is participating in a field trial for dogs, recognized by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, if such field trial is not conducted on a controlled shooting area;

(5) a person who holds a valid permit issued to such person pursuant to subsection (f) and who hunts only waterfowl; or

(6) a resident of this state hunting only prairie dogs, moles or gophers.

(c) The fee for a hunting license shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a hunting license is valid throughout the state, except that the secretary may issue a special controlled shooting area license ~~which~~ *that* is valid only for licensed controlled shooting areas.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a hunting license is valid from the date of issuance and expires on December 31 following its issuance, except that:

(1) The secretary may issue a permanent license pursuant to K.S.A. 32-929, and amendments thereto; *and*

(2) the secretary may issue a lifetime license pursuant to K.S.A. 32-930, and amendments thereto.

(f) A 48-hour waterfowl permit may be issued which authorizes hunting of waterfowl in this state subject to all other provisions of law and rules and regulations of the secretary. The fee for such permit shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto. Such permit is valid throughout the state, is valid from the time designated on the permit and expires 48 hours after such time. Purchase of such permit shall not affect the requirement to purchase any federal migratory bird hunting and conservation stamp or state migratory waterfowl habitat stamp.

~~(g) The provisions of paragraph (b)(3) shall expire on June 30, 2020.~~

Sec. 5. K.S.A. 32-988 is hereby amended to read as follows: 32-988. (a) The secretary is authorized to adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations fixing the amount of fees for the following items, subject to the following limitations and subject to the requirement that no such rules and regulations shall be adopted as temporary rules and regulations:

Big game permits

Resident (other than elk permit): maximum \$100

Nonresident (other than elk permit): maximum \$400

Elk permit: maximum \$350

Nonresident mule deer stamp: maximum \$150

Nonresident applications: maximum \$25

Combination hunting and fishing licenses

Resident: maximum \$50

Lifetime: maximum \$1,000; or 8 quarterly payments, each maximum \$150

Nonresident: maximum \$200

Commercial dog training permits: maximum \$25

Commercial guide permit or associate guide permit

Resident: maximum \$250

Nonresident: maximum \$1,000

Commercial harvest or dealer permits: maximum \$200

Commercial prairie rattlesnake harvesting permits

Resident or nonresident with valid hunting license: maximum \$5

Resident or nonresident nonfirearm without valid hunting license:
maximum \$20

Controlled shooting area operator license: maximum \$400

Duplicate licenses, permits, stamps and other issues of the department:
maximum \$10

Falconry

Permits: maximum \$300

Examinations: maximum \$100

Field trial permits: maximum \$25

Fishing licenses

Resident: maximum \$25

Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75
Nonresident: maximum \$75
Five-day nonresident: maximum \$25
Institutional group: maximum \$200
Special nonprofit group: maximum \$200
Twenty-four-hour: maximum \$10
Fur dealer licenses
Resident: maximum \$200
Nonresident: maximum \$400
Furharvester licenses
Resident: maximum \$25
Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75
Nonresident: maximum \$400
Game breeder permits: maximum \$15
~~Handicapped~~ *Persons with a physical or developmental disability* hunting
and fishing permits: maximum \$5
Hound trainer-breeder running permits: maximum \$25
Hunting licenses
Resident: maximum \$25
Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75
Nonresident 16 or more years of age: maximum \$125
Nonresident under 16 years of age: maximum \$75
Controlled shooting area: maximum \$25
Forty-eight-hour waterfowl permits: maximum \$25
Migratory waterfowl habitat stamps: maximum \$8
Mussel fishing licenses
Resident: maximum \$200
Nonresident: maximum \$1,500
Rabbit permits
Live trapping: maximum \$200
Shipping: maximum \$400
Raptor propagation permits: maximum \$100
Rehabilitation permits: maximum \$50
Scientific, educational or exhibition permits: maximum \$10
Wildlife damage control permits: maximum \$10
Wildlife importation permits: maximum \$10
Wild turkey permits
Resident: maximum \$100
Nonresident: maximum \$400
Resident turkey tag: maximum \$20
Nonresident turkey tag: maximum \$30
Special permits under K.S.A. 32-961, *and amendments thereto*:
maximum \$100

Miscellaneous fees

Special events on department land or water: maximum \$200

Special departmental services, materials or supplies: no maximum

Other issues of department: no maximum

Vendor bond: no maximum

(b) The fee for a landowner-tenant resident big game or wild turkey hunting permit shall be an amount equal to $\frac{1}{2}$ the fee for a general resident big game or wild turkey hunting permit.

(c) The fee for a big game or wild turkey hunting permit for a resident under 16 years of age shall be an amount not to exceed $\frac{1}{2}$ the fee for a general resident big game or wild turkey hunting permit.

(d) The fee for a furharvester license for a resident under 16 years of age shall be an amount equal to $\frac{1}{2}$ the fee for a resident furharvester license.

(e) For a resident who is at least 65 years of age, but less than 75 years of age:

(1) The fee for an annual hunting license shall be an amount equal to $\frac{1}{2}$ the fee for a general annual hunting license;

(2) the fee for an annual fishing license shall be an amount equal to $\frac{1}{2}$ the fee for a general annual fishing license; and

(3) the fee for an annual combination hunting and fishing license shall be an amount equal to $\frac{1}{2}$ the fee for a general annual combination hunting and fishing license.

(f) *Any person who is a resident of this state and satisfies the requirements to be considered a disabled veteran under section 1, and amendments thereto, shall be exempt from the hunting and fishing license fees listed in subsection (a).*

(g) The secretary may establish, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, different fees for various classes and types of licenses, permits, stamps and other issuances of the department which may occur within each item as described under subsection (a).

~~(g) The provisions of subsection (e) shall expire on June 30, 2020.~~

Sec. 6. K.S.A. 32-837, 32-906, 32-919 and 32-988 are hereby repealed.

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

Approved April 19, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 44

Senate Substitute for HOUSE BILL No. 2058

AN ACT concerning gaming; relating to sports wagering; authorizing any compact with a federally recognized Indian tribe to include provisions governing sports wagering outside the boundaries of Indian lands; amending K.S.A. 2022 Supp. 46-2305 and repealing the existing section.

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

Section 1. K.S.A. 2022 Supp. 46-2305 is hereby amended to read as follows: 46-2305. (a) If any federally recognized Indian tribe, as described in K.S.A. 74-9802(f), and amendments thereto, submits a request for negotiation of a gaming compact regarding sports wagering in accordance with K.S.A. 46-2302, and amendments thereto, the governor or the governor's designated representative shall negotiate in good faith with such Indian tribe to enter into such gaming compact.

~~(b) No compact described in subsection (a) shall include sports wagering beyond the boundaries of the compacting tribe's Indian lands, within the meaning of the Indian gaming regulatory act, 25 U.S.C. § 2701 et seq.~~

Sec. 2. K.S.A. 2022 Supp. 46-2305 is hereby repealed.

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

Approved April 19, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 45

Senate Substitute for HOUSE BILL No. 2170*

AN ACT concerning philanthropic gifts; relating to judicial enforcement of donor-imposed restrictions on gifts of endowment funds or to endowment funds; enacting the donor intent protection act.

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

Section 1. (a) Sections 1 through 5, and amendments thereto, shall be known and may be cited as the donor intent protection act.

(b) The purpose of sections 1 through 5, and amendments thereto, is to provide legal recourse to an individual charitable donor when the donor's gift restrictions pursuant to an endowment agreement with a recipient charitable organization that governs an endowment fund containing only property gifted by such donor are not followed by the recipient charitable organization.

Sec. 2. For purposes of sections 1 through 5, and amendments thereto:

(a) "Charitable organization" means an organization organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational or other specified purposes and that is exempt from federal income taxation as an entity described in section 501(c)(3) of the federal internal revenue code and maintains its principal office in Kansas.

(b) "Donor" means an individual who has made a gift of property to an existing endowment fund of a charitable organization or that establishes a new endowment fund of the charitable organization pursuant to terms of an endowment agreement that may include donor-imposed restrictions or conditions governing the use of the gifted endowment property or funds.

(c) "Donor-imposed restriction" means a written statement within an endowment agreement or institutional solicitation that specifies obligations on the management or purpose of the property gifted by the donor that are imposed by or accepted by the donor of the gift as a condition of the charitable organization's receipt of property pursuant to an endowment agreement.

(d) "Endowment agreement" means a written agreement between a donor and a charitable organization that gifts an endowment fund to a charitable organization or gifts property to an endowment fund of a charitable organization, and such donor is the only donor gifting such endowment fund or property to an endowment fund. An "endowment agreement" may include donor-imposed restrictions or conditions governing the use of the gifted endowment property or fund.

(e) "Endowment fund" means an institutional fund that, under the terms of an endowment agreement, is not wholly expendable by the char-

itable institution on a current basis and that only contains property gifted by a single donor. “Endowment fund” does not include assets that the charitable institution designates as an endowment fund for its own use.

(f) “Legal representative” means the administrator or executor of an individual’s estate, a surviving spouse if there is a judicial settlement of the accounts of an individual’s estate or any living, named individual designated in an endowment agreement to act in place of a party to an endowment agreement with respect to all matters expressed in such endowment agreement and all actions that such agreement contemplates, including, but not limited to, interpreting, performing and enforcing any provisions of such endowment agreement and defending the validity thereof.

(g) “Property” means real property, personal property or money, cryptocurrency, stocks, bonds or any other asset or financial instrument.

Sec. 3. (a) Except where specifically required or authorized by federal or state law, including, but not limited to, K.S.A. 58-3616, and amendments thereto, no charitable organization that accepts a contribution of property of an endowment fund or to an endowment fund pursuant to an endowment agreement that imposes a written donor-imposed restriction shall violate the terms of that restriction.

(b) If a charitable organization violates a donor-imposed restriction contained in an endowment agreement, the donor, or the donor’s legal representative, may file a complaint within two years after discovery of the violation for breach of such agreement but not more than 40 years after the date of the endowment agreement that established the endowment fund. The complaint may be filed in a court of general jurisdiction in the county of this state where a charitable organization named as a party has its principal office or principal place of carrying out its charitable purpose or in the county of residence of the donor. The complaint may be filed whether or not the endowment agreement expressly reserves a right to sue or a right of enforcement. A complaint filed pursuant to sections 1 through 4, and amendments thereto, shall not seek, or result in, a judgment awarding damages to the plaintiff.

(c) (1) If the court determines that a charitable organization violated a donor-imposed restriction, the court may order any remedy in law or equity that is consistent with and restores, to the extent possible, the donor’s intent as expressed by the donor-imposed restrictions and conditions in the endowment agreement, including, but not limited to:

(A) Future compliance with or performance of donor-imposed restrictions or conditions on the use or expenditure of the gifted endowment property;

(B) restitution or restoration by the charitable organization of property to an endowment fund that has been expended or used by the charitable organization in contravention of donor-imposed restrictions;

- (C) an accounting or the imposition of accounting requirements;
- (D) restoration or a change to a name required by the donor-imposed restrictions;
- (E) measures to preserve the property and value of the endowment fund;
- (F) modification or release of a donor-imposed restriction or reformation or dissolution of the endowment agreement as permitted by Kansas law; or
- (G) transfer of property from the endowment fund to another charitable organization as directed by the donor, but only if the transfer would not jeopardize or be inconsistent with the tax-exempt status of the original charitable organization. Nothing in this section shall conflict with or affect section 3(b), and amendments thereto.

(2) The court shall not order the return of donated funds to the donor or the donor's legal representative or estate.

Sec. 4. A charitable organization may obtain a judicial declaration of rights and duties expressed in an endowment agreement containing donor-imposed restrictions as to all of the actions that such agreement contemplates, including, but not limited to, the interpretation, performance and enforcement of the agreement and determination of its validity as provided in K.S.A. 58-3616, and amendments thereto. The charitable organization may also seek such declaration in any suit brought under this section.

Sec. 5. The provisions of sections 1 through 4, and amendments thereto, shall not apply to any release or modification of any donor restriction or purpose ordered or made pursuant to K.S.A. 58-3616, and amendments thereto, prior to July 1, 2023, or to any appeal of any such release or modification that is pending on or after July 1, 2023. Nothing in this act affects the authority of the attorney general to enforce any restriction in an endowment agreement, limits the application of the judicial power of cy pres or alters the right of an institution to modify a restriction on the management, investment, purpose or use of an endowment fund in a manner permitted by the endowment agreement.

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

Approved April 19, 2023.

CHAPTER 46

HOUSE BILL No. 2196

AN ACT concerning retirement and pensions; relating to the Kansas police and firemen's retirement system; providing for membership affiliation for certain law enforcement officers and employees of the Kansas department of wildlife and parks; establishing employee and employer contributions; amortizing certain actuarial legacy costs for such affiliation, exception; expanding Kansas deferred retirement option program membership to all members of the Kansas police and firemen's retirement system; extending the expiration date of such program; amending K.S.A. 2022 Supp. 74-4986l, 74-4986p and 74-4986r and repealing the existing sections.

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

New Section 1. (a) (1) On July 1, 2023, the Kansas department of wildlife and parks shall be an eligible employer as defined in K.S.A. 74-4952, and amendments thereto, and 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 section for membership in the system of officers and employees employed by the Kansas department of wildlife and parks who have successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center and are certified as a full-time police officer or law enforcement officer pursuant to the provisions of K.S.A. 74-5607a, and amendments thereto, and who are employed in the parks, public lands or law enforcement division. For purposes of such affiliation for membership in the system of such members, the Kansas department of wildlife and parks shall be considered a new participating employer. The Kansas department of wildlife and parks 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 the July 1 next following application. The Kansas department of wildlife and parks shall affiliate for membership in the system of such officers and employees for participating service credit.

(2) The Kansas department of wildlife and parks shall appropriate and pay a sum sufficient to satisfy any obligations as certified by the board of trustees of the retirement system based on an actuarial valuation of the cost of such affiliation, and the employer contributions of the Kansas department of wildlife and parks shall be as provided in K.S.A. 74-4967(1), and amendments thereto.

(b) Each such officer and employee who is employed by the Kansas department of wildlife and parks on or after the entry date of the Kansas department of wildlife and parks 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 and shall be subject to the provisions of K.S.A. 74-4951 et seq., and amendments thereto, as applicable.

(c) 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 section as certified by the board of trustees of the system, and shall present the same to the legislature for allowance and appropriation.

(d) The determination of retirement, death or disability benefits shall be computed upon the basis of credited services, as used in K.S.A. 74-4951 et seq., and amendments thereto, but shall include only participating service with the Kansas department of wildlife and parks, commencing on and after the effective date of affiliation by the Kansas department of wildlife and parks with the Kansas police and firemen's retirement system.

(e) In the case of a member who retires on or after July 1, 2023, whose date of membership in the system is prior to July 1, 1993, and any member who was 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, shall have such member's employer certify to the Kansas public employees retirement system the number of hours of such member's sick and annual leaves at the time of such member's transfer to the Kansas police and firemen's retirement system. Upon the date of such member's retirement from the Kansas public employees retirement system, such member may use in the calculation of the member's retirement benefit, the average highest annual compensation, as defined in K.S.A. 74-4902(9), and amendments thereto, which shall include but not exceed compensation for the number of sick and annual leave hours certified to the Kansas public employees retirement system on the date of the member's transfer, paid to such member for any four years of participating service preceding the transfer to the Kansas police and firemen's retirement system, or the average highest annual salary, as defined in K.S.A. 74-4902(33), and amendments thereto, paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater.

(f) Any rights or benefits accruing to any such officer or employee employed by the Kansas department of wildlife and parks prior to the effective date of affiliation shall be determined pursuant to the provisions of K.S.A. 74-4901 et seq., and amendments thereto. Any officer and employee who becomes a member pursuant to this section, who has a vested retirement benefit pursuant to K.S.A. 74-4917, and amendments thereto, and who terminates employment prior to attaining a vested benefit pursuant to K.S.A. 74-4963, and amendments thereto, may have such service credited for purposes of computing retirement benefits pursuant to K.S.A. 74-4901 et seq., and amendments thereto.

(g) Beginning with the first payment of compensation for services of such officer or employee after becoming a member of the Kansas police and firemen's retirement system, the employer shall deduct from the compensation of such member 7.15% as the employee contribution to the system. Such deductions shall be remitted, deposited and credited as provided in K.S.A. 74-4965, and amendments thereto.

(h) (1) Except as provided in paragraph (2), the actuarial legacy cost of \$2,733,769 for the remaining unfunded liabilities in the Kansas public employees retirement system shall be amortized over 20 years as a level dollar amount, as certified by the board upon recommendation of the consulting actuary, through an additional annual payment by the Kansas department of wildlife and parks.

(2) Subject to appropriations, the Kansas department of wildlife and parks may make a payment in full or payments in two installments for such actuarial legacy cost prior to the expiration of the 20-year amortization period.

Sec. 2. K.S.A. 2022 Supp. 74-4986~~l~~ is hereby amended to read as follows: 74-4986~~l~~. (a) As used in this act, unless otherwise provided or the context otherwise requires:

- (1) "Act" means the Kansas deferred retirement option program act;
- (2) "board" means the board of trustees of the Kansas public employees retirement system;
- (3) "DROP" means the deferred retirement option program established by K.S.A. 74-4986m, and amendments thereto;
- (4) "DROP account" means the notional account to which is credited the monthly DROP accrual;
- (5) "DROP period" means the period of time that a member elects to participate in the DROP pursuant to K.S.A. 74-4986n, and amendments thereto;
- (6) "member" means ~~a trooper, examiner or officer of the Kansas highway patrol or an agent of the Kansas bureau of investigation~~ *any member of the Kansas police and firemen's retirement system* who is eligible to participate in the DROP and who elects to participate in the DROP as provided in this act;
- (7) "monthly DROP accrual" means the amount equal to the monthly retirement benefit that would have been payable to the member had the member terminated service and retired on the day the member elected; and
- (8) "system" means the Kansas police and firemen's retirement system.

(b) Unless specifically provided in this section or in this act, words and phrases used in this act mean the same as provided under the provisions of K.S.A. 74-4901 et seq. and 74-4951 et seq., and amendments thereto.

Sec. 3. K.S.A. 2022 Supp. 74-4986p is hereby amended to read as follows: 74-4986p. (a) A member's participation in the DROP ceases on the occurrence of the earliest of the following:

(1) Termination of the member's active service with ~~the Kansas highway patrol or Kansas bureau of investigation~~ *a participating employer of the system*;

(2) the last day of the member's elected DROP period that begins on the effective date of the member's election to participate in the DROP;

(3) retirement due to disability as defined in K.S.A. 74-4952, and amendments thereto; or

(4) the member's death.

(b) If a member dies before taking a distribution from such member's DROP account, the member's designated beneficiary shall receive a lump-sum payment equal to the member's DROP account balance, including any lump sum credited as provided in K.S.A. 74-4986o(d), and amendments thereto. If the DROP member has not named a beneficiary for such member's DROP account, the amount in the DROP account shall be paid to the beneficiary of the member's retirement benefit.

Sec. 4. K.S.A. 2022 Supp. 74-4986r is hereby amended to read as follows: 74-4986r. The provisions of K.S.A. 74-4986k through 74-4986r, and amendments thereto, shall expire on January 1, ~~2025~~ 2031.

Sec. 5. K.S.A. 2022 Supp. 74-4986l, 74-4986p and 74-4986r are hereby repealed.

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

Approved April 19, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 47

HOUSE BILL No. 2173*

AN ACT concerning political subdivisions of the state; relating to building codes or similar rules; providing that such provisions shall not prohibit refrigerants approved for use under federal law.

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

Section 1. (a) No building code, ordinance, resolution, regulation, or rule of any political subdivision of the state shall prohibit or limit the use of refrigerants that are approved and listed for use under 42 U.S.C. § 7671k or the regulations promulgated thereunder, if any equipment containing such refrigerant is used and installed in accordance with the provisions of 42 U.S.C. § 7671k or the regulations promulgated thereunder, including any safety standards or use conditions. Any part of any building code, ordinance, resolution, regulation or rule of any political subdivision of the state that violates this section shall be null and void.

(b) For purposes of this section, “political subdivision of the state” means any state agency, authority, board, county, city, unified government or any other political or taxing subdivision of the state of Kansas, or an administrative unit thereof, with authority to regulate the use of refrigerants.

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

Approved April 19, 2023.

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CHAPTER 48

HOUSE BILL No. 2172

AN ACT concerning trusts; enacting the uniform trust decanting act; relating to the power of an authorized fiduciary to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust; authorizing modification of a noncharitable irrevocable trust to provide that the rule against perpetuities is inapplicable; providing that the Kansas uniform statutory rule against perpetuities is inapplicable to trusts under certain circumstances; modifying the definition of resident trust in the Kansas income tax act; amending K.S.A. 59-3404 and K.S.A. 2022 Supp. 58a-411 and 79-32,109 and repealing the existing sections.

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

New Section 1. Sections 1 through 30, and amendments thereto, shall be known and may be cited as the uniform trust decanting act.

New Sec. 2. As used in the uniform trust decanting act:

(a) “Appointive property” means the property or property interest subject to a power of appointment.

(b) “Ascertainable standard” means a standard relating to an individual’s health, education, support or maintenance within the meaning of 26 U.S.C. § 2041(b)(1)(A) or 26 U.S.C. § 2514(c)(1) and any applicable regulations.

(c) “Authorized fiduciary” means a:

(1) Trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

(2) special fiduciary appointed under section 9, and amendments thereto; or

(3) special-needs fiduciary under section 13, and amendments thereto.

(d) “Beneficiary” means a person that:

(1) Has a present or future, vested or contingent, beneficial interest in a trust;

(2) holds a power of appointment over trust property; or

(3) is an identified charitable organization that will or may receive distributions under the terms of the trust.

(e) “Charitable interest” means an interest in a trust that:

(1) Is held by an identified charitable organization and makes the organization a qualified beneficiary;

(2) benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(3) is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

- (f) “Charitable organization” means a:
- (1) Person, other than an individual, organized and operated exclusively for charitable purposes; or
 - (2) government or governmental subdivision, agency or instrumentality, to the extent it holds funds exclusively for a charitable purpose.
- (g) “Charitable purpose” means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose or another purpose the achievement of which is beneficial to the community.
- (h) “Court” means the district court.
- (i) “Current beneficiary” means a beneficiary that, on the date the beneficiary’s qualification is determined, is a distributee or permissible distributee of trust income or principal. The term includes the holder of a presently exercisable general power of appointment but does not include a person that is a beneficiary only because the person holds any other power of appointment.
- (j) “Decanting power” or “the decanting power” means the power of an authorized fiduciary under the uniform trust decanting act to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.
- (k) “Expanded distributive discretion” means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.
- (l) “First trust” means a trust over which an authorized fiduciary may exercise the decanting power.
- (m) “First-trust instrument” means the trust instrument for a first trust.
- (n) “General power of appointment” means a power of appointment exercisable in favor of a powerholder, the powerholder’s estate, a creditor of the powerholder or a creditor of the powerholder’s estate.
- (o) “Jurisdiction,” with respect to a geographic area, includes a state or country.
- (p) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality or other legal entity.
- (q) “Power of appointment” means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.
- (r) “Powerholder” means a person in which a donor creates a power of appointment.
- (s) “Presently exercisable power of appointment” means a power of appointment exercisable by the powerholder at the relevant time. The term:

(1) Includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified time only after the:

- (A) Occurrence of the specified event;
- (B) satisfaction of the ascertainable standard; or
- (C) passage of the specified time; and

(2) does not include a power exercisable only at the powerholder's death.

(t) "Qualified beneficiary" means a beneficiary that, on the date the beneficiary's qualification is determined:

- (1) Is a distributee or permissible distributee of trust income or principal;
- (2) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph (1) terminated on that date without causing the trust to terminate; or
- (3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(u) "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. § 674(b)(5)(A) and any applicable regulations.

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

(w) "Second trust" means a:

- (1) First trust after modification under the uniform trust decanting act; or
- (2) trust to which a distribution of property from a first trust is or may be made under the uniform trust decanting act.

(x) "Second-trust instrument" means the trust instrument for a second trust.

(y) "Settlor," except as otherwise provided in section 25, and amendments thereto, means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a "settlor" of the portion of the trust property attributable to the person's contribution except to the extent another person has power to revoke or withdraw that portion.

(z) "Sign" means, with present intent to authenticate or adopt a record:

- (1) To execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic symbol, sound or process.

(aa) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

(bb) "Terms of the trust" means:

(1) Except as otherwise provided in paragraph (2), the manifestation of the settlor's intent regarding a trust's provisions as:

- (A) Expressed in the trust instrument; or
- (B) established by other evidence that would be admissible in a judicial proceeding;
- (2) the trust's provisions as established, determined or amended by a:
 - (A) Trustee or other person in accordance with applicable law;
 - (B) court order; or
 - (C) nonjudicial settlement agreement under K.S.A. 58a-111, and amendments thereto.

(cc) "Trust instrument" means a record executed by the settlor to create a trust or by any person to create a second trust that contains some or all of the terms of the trust, including any amendments.

New Sec. 3. (a) Except as otherwise provided in subsections (b) and (c), the uniform trust decanting act applies to an express trust that is irrevocable or revocable by the settlor only with the consent of the trustee or a person holding an adverse interest.

(b) The uniform trust decanting act does not apply to a trust held solely for charitable purposes.

(c) Subject to section 15, and amendments thereto, a trust instrument may restrict or prohibit exercise of the decanting power.

(d) The uniform trust decanting act does not limit the power of a trustee, powerholder or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, law of this state other than the act, common law, a court order or a nonjudicial settlement agreement.

(e) The uniform trust decanting act does not affect the ability of a settlor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

New Sec. 4. (a) In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

(b) The uniform trust decanting act does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of the act.

(c) Except as otherwise provided in a first-trust instrument, for purposes of the uniform trust decanting act and K.S.A. 58a-801 and 58a-802(a), and amendments thereto, the terms of the first trust are deemed to include the decanting power.

New Sec. 5. The uniform trust decanting act applies to a trust created before, on, or after July 1, 2023, that:

(a) Has its principal place of administration in this state, including a trust whose principal place of administration has been changed to this state; or

(b) provides by its trust instrument that it is governed by the law of this state or is governed by the law of this state for the purpose of:

(1) Administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of this state;

(2) construction of terms of the trust; or

(3) determining the meaning or effect of terms of the trust.

New Sec. 6. A trustee or other person that reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust, under the uniform trust decanting act, law of this state other than the act or the law of another jurisdiction is not liable to any person for any action or failure to act as a result of the reliance.

New Sec. 7. (a) In this section, a notice period begins on the day notice is given under subsection (c) and ends 59 days after the day notice is given.

(b) Except as otherwise provided in the uniform trust decanting act, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

(c) Except as otherwise provided in subsection (f), an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days before the exercise to:

(1) Each settlor of the first trust, if living or then in existence;

(2) each qualified beneficiary of the first trust;

(3) each holder of a presently exercisable power of appointment over any part or all of the first trust;

(4) each person that currently has the right to remove or replace the authorized fiduciary;

(5) each other fiduciary of the first trust;

(6) each fiduciary of the second trust;

(7) each person acting as an advisor or protector of the first trust; and

(8) the attorney general, if section 14(b), and amendments thereto, applies.

(d) An authorized fiduciary is not required to give notice under subsection (c) to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

(e) A notice under subsection (c) shall:

(1) Specify the manner in which the authorized fiduciary intends to exercise the decanting power, which shall include a statement as to the authorized fiduciary's reason for the proposed decanting and an explanation as to the differences between the first trust and the second trust or trusts;

(2) specify the proposed effective date for exercise of the power;

(3) include a copy of the first-trust instrument;

(4) include a copy of all second-trust instruments;

(5) include a statement indicating the capacity in which the intended recipient is being given notice; and

(6) include a statement that any application under section 9, and amendments thereto, shall be filed within six months from the day notice is given.

(f) The decanting power may be exercised before expiration of the notice period under subsection (a) if all persons entitled to receive notice waive the period in a signed record.

(g) The receipt of notice, waiver of the notice period or expiration of the notice period does not affect the right of a person to file an application under section 9, and amendments thereto, except as provided in that section.

(h) An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection (c) if the authorized fiduciary acted with reasonable care to comply with subsection (c).

New Sec. 8. (a) Notice to a person with authority to represent and bind another person under a first-trust instrument or the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, has the same effect as notice given directly to the person represented.

(b) Consent of or waiver by a person with authority to represent and bind another person under a first-trust instrument or the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, is binding on the person represented unless the person represented objects to the representation before the consent or waiver otherwise would become effective.

(c) A person with authority to represent and bind another person under a first-trust instrument or the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, may file an application under section 9, and amendments thereto, on behalf of the person represented.

(d) A settlor shall not represent or bind a beneficiary under the uniform trust decanting act.

New Sec. 9. (a) On application of an authorized fiduciary, a person entitled to notice under section 7(c), and amendments thereto, a beneficiary, or with respect to a charitable interest, the attorney general or other person that has standing to enforce the charitable interest, the court may:

(1) Provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under the uniform trust decanting act and consistent with the fiduciary duties of the authorized fiduciary;

(2) appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under the uniform trust decanting act and to exercise the decanting power;

(3) approve an exercise of the decanting power;

(4) subject to the limitation set forth in subsection (c), determine that a proposed or attempted exercise of the decanting power is ineffective because:

(A) After applying section 22, and amendments thereto, the proposed or attempted exercise does not or did not comply with the uniform trust decanting act; or

(B) the proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;

(5) determine the extent to which section 22, and amendments thereto, applies to a prior exercise of the decanting power;

(6) provide instructions to the trustee regarding the application of section 22, and amendments thereto, to a prior exercise of the decanting power; or

(7) order other relief to carry out the purposes of the uniform trust decanting act.

(b) On application of an authorized fiduciary, the court may approve:

(1) An increase in the fiduciary's compensation under section 16, and amendments thereto; or

(2) a modification under section 18, and amendments thereto, of a provision granting a person the right to remove or replace the fiduciary.

(c) A proceeding under subsection (a)(4) shall not be commenced by a person entitled to notice under section 7(c), and amendments thereto, or by a beneficiary unless such proceeding is commenced within six months from the day notice is given under section 7(a), and amendments thereto. Failure to receive notice shall not extend the time by which such proceeding must be commenced if the authorized fiduciary acted with reasonable diligence to comply with the requirements of section 7(c), and amendments thereto.

(d) In a judicial proceeding involving the decanting of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

New Sec. 10. An exercise of the decanting power shall be made in a record signed by an authorized fiduciary. The signed record shall, directly or by reference to the notice required by section 7, and amendments thereto, identify the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust and the property, if any, that remains in the first trust.

New Sec. 11. (a) As used in this section:

(1) “Noncontingent right” means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. The term does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary’s estate.

(2) “Presumptive remainder beneficiary” means a qualified beneficiary other than a current beneficiary.

(3) “Successor beneficiary” means a beneficiary that is not a qualified beneficiary on the date the beneficiary’s qualification is determined. “Successor beneficiary” does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment.

(4) “Vested interest” means a:

(A) Right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(B) current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(C) current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount, or a percentage of value of some or all of the trust property;

(D) presently exercisable general power of appointment; or

(E) right to receive an ascertainable part of the trust property on the trust’s termination that is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

(b) Subject to subsection (c) and section 14, and amendments thereto, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Subject to section 13, and amendments thereto, in an exercise of the decanting power under this section, a second trust shall not:

(1) Include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in subsection (d);

(2) include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary or successor beneficiary of the first trust, except as otherwise provided in subsection (d); or

(3) reduce or eliminate a vested interest.

(d) Subject to subsection (c)(3) and section 14, and amendments thereto, in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

(1) Retain a power of appointment granted in the first trust;

(2) omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(3) create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

(4) create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

(e) A power of appointment described in subsection (d) may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

(f) If an authorized fiduciary has expanded distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has expanded distributive discretion.

New Sec. 12. (a) As used in this section, “limited distributive discretion” means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

(b) An authorized fiduciary that has limited distributive discretion over the principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

(c) Under this section and subject to section 14, and amendments thereto, a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, shall grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust.

(d) A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if the:

- (1) Distribution is applied for the benefit of the beneficiary;
- (2) beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto; or
- (3) distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

(e) If an authorized fiduciary has limited distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

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

(1) “Beneficiary with a disability” means a beneficiary of a first trust who the special-needs fiduciary reasonably believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who has been adjudicated as incapacitated.

(2) “Governmental benefits” means financial aid or services from a state, federal or other public agency.

(3) “Special-needs fiduciary” means, with respect to a trust that has a beneficiary with a disability:

(A) A trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries;

(B) if no trustee or fiduciary has discretion under subparagraph (A), a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries; or

(C) if no trustee or fiduciary has discretion under subparagraphs (A) and (B), a trustee or other fiduciary, other than a settlor, that is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries.

(4) “Special-needs trust” means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

(b) A special-needs fiduciary may exercise the decanting power under section 11, and amendments thereto, over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

(1) A second trust is a special-needs trust that benefits the beneficiary with a disability; and

(2) the special-needs fiduciary determines that exercise of the decanting power will not be inconsistent with a material purpose of the first trust.

(c) In an exercise of the decanting power under this section, the following rules apply:

(1) Notwithstanding section 11(c)(2), and amendments thereto, the interest in the second trust of a beneficiary with a disability may:

(A) Be a pooled trust as defined by medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. § 1396p(d)(4)(C); or

(B) contain payback provisions complying with reimbursement requirements of medicaid law under 42 U.S.C. § 1396p(d)(4)(A).

(2) Section 11(c)(3), and amendments thereto, does not apply to the interests of the beneficiary with a disability.

(3) Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, shall grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's beneficial interests in the first trust.

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

(1) "Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event or after the passage of a specified time and is unconditional or will be held solely for charitable purposes.

(2) "Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States internal revenue code of 1986 on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

(b) If a first trust contains a determinable charitable interest, the attorney general has the rights of a qualified beneficiary and may represent and bind the charitable interest.

(c) If a first trust contains a charitable interest, the second trust or trusts shall not:

(1) Diminish the charitable interest;

(2) diminish the interest of an identified charitable organization that holds the charitable interest;

(3) alter any charitable purpose stated in the first-trust instrument; or

(4) alter any condition or restriction related to the charitable interest.

(d) If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection (c).

(e) If a first trust contains a determinable charitable interest, the second trust or trusts that include a charitable interest pursuant to subsection (c) shall be administered under the law of this state unless the:

(1) Attorney general, after receiving notice under section 7, and amendments thereto, fails to object in a signed record delivered to the authorized fiduciary within the notice period;

(2) attorney general consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

(3) court approves the exercise of the decanting power.

(f) The uniform trust decanting act does not limit the powers and duties of the attorney general under law of this state other than the act.

New Sec. 15. (a) An authorized fiduciary shall not exercise the decanting power to the extent the first-trust instrument expressly prohibits exercise of:

(1) The decanting power; or
(2) a power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(b) Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

(1) The decanting power; or
(2) a power granted by state law to a fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

(c) A general prohibition of the amendment or revocation of a first trust, a spendthrift clause or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

(d) Subject to subsections (a) and (b), an authorized fiduciary may exercise the decanting power under the uniform trust decanting act even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.

(e) To the extent the creation of a second-trust instrument is permitted, if a first-trust instrument contains an express prohibition described in subsection (a) or an express restriction described in subsection (b), the provision shall be included in the second-trust instrument.

New Sec. 16. (a) If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary shall not exercise the decanting power to increase the fiduciary's compensation above the specified compensation unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) the increase is approved by the court.

(b) If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary shall not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, unless:

(1) All qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) the increase is approved by the court.

(c) A change in an authorized fiduciary's compensation that is incidental to other changes made by the exercise of the decanting power is

not an increase in the fiduciary's compensation for purposes of subsections (a) and (b).

New Sec. 17. (a) Except as otherwise provided in this section, a second-trust instrument shall not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first-trust instrument.

(b) A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

(c) A second-trust instrument shall not reduce fiduciary liability in the aggregate.

(d) Subject to subsection (c), a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted by law of this state other than the uniform trust decanting act.

New Sec. 18. An authorized fiduciary shall not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless the:

(a) Person holding the power consents to the modification in a signed record and the modification applies only to the person;

(b) person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

(c) court approves the modification and the modification grants a substantially similar power to another person.

New Sec. 19. (a) As used in this section:

(1) "Grantor trust" means a trust as to which a settlor of a first trust is considered the owner under 26 U.S.C. §§ 671 through 677 or 26 U.S.C. § 679.

(2) "Internal revenue code" means the United States internal revenue code of 1986.

(3) "Nongrantor trust" means a trust that is not a grantor trust.

(4) "Qualified benefits property" means property subject to the minimum distribution requirements of 26 U.S.C. § 401(a)(9), and any applicable regulations, or to any similar requirements that refer to 26 U.S.C. § 401(a)(9) or the regulations.

(b) An exercise of the decanting power is subject to the following limitations:

(1) If a first trust contains property that qualified, or would have qualified but for provisions of the uniform trust decanting act other than this

section, for a marital deduction for purposes of the gift or estate tax under the internal revenue code or a state gift, estate or inheritance tax, the second-trust instrument shall not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the internal revenue code or state law under which the transfer qualified.

(2) If the first trust contains property that qualified, or would have qualified but for provisions of the uniform trust decanting act other than this section, for a charitable deduction for purposes of the income, gift or estate tax under the internal revenue code or a state income, gift, estate or inheritance tax, the second-trust instrument shall not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the internal revenue code or state law under which the transfer qualified.

(3) If the first trust contains property that qualified, or would have qualified but for provisions of the uniform trust decanting act other than this section, for the exclusion from the gift tax described in 26 U.S.C. § 2503(b), the second-trust instrument shall not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. § 2503(b). If the first trust contains property that qualified, or would have qualified but for provisions of the uniform trust decanting act other than this section, for the exclusion from the gift tax described in 26 U.S.C. § 2503(b) by application of 26 U.S.C. § 2503(c), the second-trust instrument shall not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. § 2503(c).

(4) If the property of the first trust includes shares of stock in an S corporation as defined in 26 U.S.C. § 1361 and the first trust is, or but for provisions of the uniform trust decanting act other than this section would be, a permitted shareholder under any provision of 26 U.S.C. § 1361, an authorized fiduciary may exercise the power with respect to part or all of the S-corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. § 1361(c)(2). If the property of the first trust includes shares of stock in an S corporation and the first trust is, or but for provisions of the uniform trust decanting act other than this section would be, a qualified subchapter-S trust within the meaning of 26 U.S.C. § 1361(d), the second-trust instrument shall not include or

omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

(5) If the first trust contains property that qualified, or would have qualified but for provisions of the uniform trust decanting act other than this section, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under 26 U.S.C. § 2642(c), the second-trust instrument shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. § 2642(c).

(6) If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument shall not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. § 401(a)(9) and any applicable regulations, or any similar requirements that refer to 26 U.S.C. § 401(a)(9) or the regulations. If an attempted exercise of the decanting power violates the preceding sentence, the trustee is deemed to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power and section 22, and amendments thereto, applies to the separate share.

(7) If the first trust qualifies as a grantor trust because of the application of 26 U.S.C. § 672(f)(2)(A), the second trust shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. § 672(f)(2)(A).

(8) As used in this paragraph, “tax benefit” means a federal or state tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for a benefit arising from being a grantor trust. Subject to paragraph (9), a second-trust instrument shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if the:

(A) First-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and

(B) transfer of property held by the first trust or the first trust qualified, or but for provisions of the uniform trust decanting act other than this section, would have qualified for the tax benefit.

(9) Subject to paragraph (4):

(A) Except as otherwise provided in paragraph (7), the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and

(B) except as otherwise provided in paragraph (10), the second trust may be a grantor trust, even if the first trust is a nongrantor trust.

(10) An authorized fiduciary shall not exercise the decanting power if a settlor objects in a signed record delivered to the fiduciary within the notice period and:

(A) The first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the settlor or another person the power to cause the first trust to cease to be a grantor trust, and the second trust does not grant an equivalent power to the settlor or other person; or

(B) the first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless the:

(i) Settlor has the power at all times to cause the second trust to cease to be a grantor trust; or

(ii) first-trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

New Sec. 20. (a) Subject to subsection (b), a second trust may have a duration that is the same as or different from the duration of the first trust.

(b) To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation or suspension of the power of alienation that apply to property of the first trust.

New Sec. 21. An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have made or could have been compelled to make a discretionary distribution of principal at the time of the exercise.

New Sec. 22. (a) If exercise of the decanting power would be effective under the uniform trust decanting act except that the second-trust instrument in part does not comply with the act, the exercise of the power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

(1) A provision in the second-trust instrument that is not permitted under the act is void to the extent necessary to comply with this act.

(2) A provision required by the act to be in the second-trust instrument that is not contained in the instrument is deemed to be included in the instrument to the extent necessary to comply with the act.

(b) If a trustee or other fiduciary of a second trust determines that subsection (a) applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

New Sec. 23. (a) As used in this section:

(1) "Animal trust" means a trust or an interest in a trust created to provide for the care of one or more animals.

(2) “Protector” means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no such person is appointed in the trust, a person appointed by the court for that purpose.

(b) The decanting power may be exercised over an animal trust that has a protector to the extent the trust could be decanted under the uniform trust decanting act if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the power.

(c) A protector for an animal has the rights under the uniform trust decanting act of a qualified beneficiary.

(d) Notwithstanding any other provision of the uniform trust decanting act, if a first trust is an animal trust, in an exercise of the decanting power, the second trust shall provide that trust property may be applied only to its intended purpose for the period the first trust benefited the animal.

New Sec. 24. A reference in the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto, to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

New Sec. 25. (a) For purposes of law of this state other than the uniform trust decanting act and subject to subsection (b), a settlor of a first trust is deemed to be the settlor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power.

(b) In determining settlor intent with respect to a second trust, the intent of a settlor of the first trust, a settlor of the second trust and the authorized fiduciary may be considered.

New Sec. 26. (a) Except as otherwise provided in subsection (c), if exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

(b) Except as otherwise provided in subsection (c), if exercise of the decanting power was intended to distribute less than all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

(c) An authorized fiduciary may provide in an exercise of the decanting power or by the terms of a second trust for disposition of later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

New Sec. 27. A debt, liability or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.

New Sec. 28. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

New Sec. 29. The uniform trust decanting act modifies, limits or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

New Sec. 30. If any provision of the uniform trust decanting act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

Sec. 31. K.S.A. 2022 Supp. 58a-411 is hereby amended to read as follows: 58a-411. (a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all qualified beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an attorney in fact under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed. This subsection does not apply to irrevocable trusts created before, or to revocable trusts that became irrevocable before, January 1, 2003.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the qualified beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the qualified beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c) (1) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(2) *Application of the rule against perpetuities is not presumed to constitute a material purpose of the trust.*

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the qualified beneficiaries.

(e) If not all of the qualified beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

- (1) If all of the qualified beneficiaries had consented, the trust could have been modified or terminated under this section; and
- (2) the interests of a qualified beneficiary who does not consent will be adequately protected.

Sec. 32. K.S.A. 59-3404 is hereby amended to read as follows: 59-3404. K.S.A. 59-3401, *and amendments thereto, the* statutory rule against perpetuities, does not apply to:

(1) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of *a*:

- (i)-a Premarital or postmarital agreement;;
- (ii)-a separation or divorce settlement;;
- (iii)-a spouse's election;;
- (iv)-a similar arrangement arising out of a prospective, existing or previous marital relationship between the parties;;
- (v)-a contract to make or not to revoke a will or trust;;
- (vi)-a contract to exercise or not to exercise a power of appointment;;
- (vii)-a transfer in satisfaction of a duty of support;; or
- (viii)-a reciprocal transfer;

(2) a fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease or mortgage property, and the power of a fiduciary to determine principal and income;

(3) a power to appoint a fiduciary;

(4) a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

(5) a nonvested property interest held by a charity, government or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government or governmental agency or subdivision;

(6) a nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral or other current or deferred benefit plan for one or more employees, independent contractors or the beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; ~~or~~

(7) a property interest, power of appointment or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of this state; *or*

(8) *a trust in which the governing instrument states that the rule against perpetuities does not apply to the trust and under which the trustee or other person to whom the power is properly granted or delegated has power under the governing instrument, any applicable statute or the common law to sell, lease or mortgage property for any period of time beyond the period which would otherwise be required for an interest created under the governing instrument to vest. This subsection shall apply to all trusts created by will or inter vivos agreement executed or amended on or after July 1, 2023, and to all trusts created by exercise of power of appointment granted under instruments executed or amended on or after July 1, 2023.*

Sec. 33. K.S.A. 2022 Supp. 79-32,109 is hereby amended to read as follows: 79-32,109. As used in this act, unless the context otherwise requires:

(a) (1) Any term used in this act shall have the same meaning as when used in a comparable context in the federal internal revenue code. Any reference in this act to the “federal internal revenue code” shall mean the provisions of the federal internal revenue code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the taxable year.

(2) Any reference in this act to a federal form or schedule, or to a line number on a federal form or schedule, shall be to such form, schedule and line number as they existed for tax year 2011 and as revised thereafter by the internal revenue service. Any such reference shall include comparable federal forms, schedules, and line numbers used by non-United States residents when filing their federal income tax return with the internal revenue service.

(b) “Resident individual” means a natural person who is domiciled in this state. A natural person who spends in the aggregate more than six months of the taxable year within this state shall be presumed to be a resident for purposes of this act in absence of proof to the contrary. A non-resident individual means an individual other than a resident individual.

(c) “Resident estate” means the estate of a deceased person whose domicile was in this state at the time of such person’s death. “Nonresident estate” means an estate other than a resident estate.

(d) “Resident trust” means a trust that:

(1) Is administered in this state ~~and that~~;

(2) was created by or consists of property owned by a person domiciled in this state on the date the trust or portion of the trust became irrevocable; *and*

(3) *has at least one income beneficiary who, on the last day of the taxable year, was a resident of this state.*

(e)(1) “Resident partner” means a partner who is a resident individual, a resident estate, or a resident trust.

(2) “Nonresident partner” means a partner other than a resident partner.

(f)(1) “Resident beneficiary” means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, or a resident trust.

(2) “Nonresident beneficiary” means a beneficiary other than a resident beneficiary.

(g) “Director” means the director of taxation.

(h)(1) “Modified Kansas source income” means that part of a nonresident individual’s Kansas adjusted gross income as set forth in K.S.A. 79-32,117, and amendments thereto, derived from sources in Kansas. Items of income including unemployment compensation, gain, loss or deduction reflected in Kansas adjusted gross income shall be considered derived from sources in Kansas to the extent that they are attributable to:

(A) The ownership of any interest in real or tangible personal property in this state;

(B) a business, trade, profession or occupation carried on in this state;

(C) a business, trade, profession or occupation carried on partly within and partly without this state as determined by the uniform division of income for tax purposes act as set forth in K.S.A. 79-3271 through 79-3293, and amendments thereto;

(D) the distributive share of partnership income, gain, loss and deduction determined under this section as if the partnership were a nonresident individual;

(E) the share of estate or trust income, gain, loss and deduction determined under K.S.A. 79-32,137, and amendments thereto;

(F) prizes won from lottery games conducted by the Kansas lottery;

(G) any winnings from parimutuel wagering derived from the conduct of parimutuel activities within this state; or

(H) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Kansas. A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of such dealer’s trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Kansas solely by reason of the purchase and sale of property for such nonresident’s own account.

(2) “Modified Kansas source income” does not include:

(A) Compensation paid by the United States for service in the armed forces of the United States, performed during an induction period by an individual not domiciled in this state; or

(B) such individual's share of distributed or undistributed taxable income or net operating loss of a corporation which is an electing small business corporation unless an agreement is filed as provided in K.S.A. 79-32,139, and amendments thereto, in which event, the "modified Kansas source income" of such nonresident individual shall include such individual's share of such corporation's distributed and undistributed taxable income or net operating loss as such share is determined under the internal revenue code only to the extent, however, that such income, gain or loss is at the corporate level, derived from sources within Kansas.

Sec. 34. K.S.A. 59-3404 and K.S.A. 2022 Supp. 58a-411 and 79-32,109 are hereby repealed.

Sec. 35. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 19, 2023.

CHAPTER 49

HOUSE BILL No. 2090

AN ACT concerning insurance; relating to fees, assessments and taxes imposed thereon; authorizing the commissioner of insurance to set the amount of certain fees; requiring information obtained from background checks, fingerprinting and criminal history records checks be used solely for the purpose of verifying the identification of an applicant and the fitness of an applicant to be issued a license as an insurance agent; discontinuing annual registration fees for prepaid service plans; modifying the requirement to report individuals who solicit memberships on behalf of such plans from semi-annually to annually and upon application for registration; decreasing the premium tax rate imposed on surplus lines insurance; amending K.S.A. 40-246c, 40-4209, 40-4905, 40-4906 and 40-5505 and repealing the existing sections; also repealing K.S.A. 40-4203.

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

Section 1. K.S.A. 40-246c is hereby amended to read as follows: 40-246c. (a) (1) On March 1 of each year, each licensed agent shall collect and pay to the commissioner a tax of 6% on the total gross premiums charged, less any return premiums, *for the preceding calendar year* for surplus lines insurance transacted by the licensee pursuant to the license for insureds whose home state is this state.

(2) *On March 1 of each year, each licensed agent shall collect and pay to the commissioner a tax of 3% on the total gross premiums charged, less any returned premiums, for the preceding calendar year for surplus lines insurance transacted by the licensee for insureds whose home state is this state. The provisions of this paragraph shall commence with the taxable year beginning January 1, 2024.*

(b) The tax on any portion of the premium unearned at termination of insurance, if any, having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker. The surplus lines licensee is prohibited from rebating any part of the tax for any reason.

(c) The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. The commissioner of insurance may assess a penalty up to double the amount of tax prescribed in subsection (a) from any licensee or other individual responsible for filing the statement as described in this subsection who fails, refuses or neglects to transmit the required affidavit or statement or fails to pay the tax imposed by this section to the commissioner within the period specified.

Sec. 2. K.S.A. 40-4209 is hereby amended to read as follows: 40-4209. (a) (1) No person shall act as or hold such person out to be a prepaid service plan in this state unless such person holds a certificate of registration as a prepaid service plan issued by the commissioner of insurance. An

application for such certificate may be made to the commissioner of insurance ~~on a form~~ *on forms* prescribed by the commissioner ~~and shall be accompanied by~~ *and shall include*: (A) *The completed application form*; (B) *a list of each individual who solicits memberships on behalf of such prepaid service plan*; and (C) a filing fee of \$100.

(2) The certificate of registration may be continued for successive annual periods by notifying the commissioner of such intent ~~and~~, paying an annual continuation fee of \$50 *and advising the commissioner of insurance of any additions to or deletions from the list of individuals who solicit memberships on behalf of such prepaid service plan since the last reporting date*.

(b) The certificate of registration shall be issued to or continued for a prepaid service plan by the commissioner of insurance unless the commissioner of insurance, after due notice and hearing, determines that the prepaid service plan is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had a previous application for a certificate of registration denied for cause since ~~the effective date of this act~~ *January 1, 1988*, or within five years of the date of application, whichever is later.

Sec. 3. K.S.A. 40-4905 is hereby amended to read as follows: 40-4905. (a) Subject to the provisions of K.S.A. 40-4904, and amendments thereto, it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.

(b) Any person applying for a resident insurance agent license shall make application on a form prescribed by the commissioner. The applicant shall declare under penalty of perjury that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief. Before approving the application, the commissioner shall determine that the applicant:

- (1) Is at least 18 years of age;
- (2) has not committed any act that is grounds for denial pursuant to this section or suspension or revocation pursuant to K.S.A. 40-4909, and amendments thereto;
- (3) has paid a nonrefundable fee ~~in the amount of~~ *set by the commissioner in an amount not to exceed \$30*; and
- (4) has successfully passed the examination for each line of authority for which the applicant has applied.

(c) If the applicant is a business entity, then, in addition to the requirements of subsection (a), the commissioner shall also determine the name and address of a licensed agent who shall be responsible for the business entity's compliance with the insurance laws of this state and the rules and regulations promulgated thereunder.

(d) The commissioner may require the applicant to furnish any document or other material reasonably necessary to verify the information contained in an application.

(e) Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide a program of instruction that may be approved by the commissioner to each individual employed by or acting on behalf of such insurer to sell, solicit or negotiate limited line credit insurance.

(f) (1) Each person or entity licensed in this state as an insurance agent shall report the following to the commissioner within 30 calendar days of occurrence:

(A) Each disciplinary action on the agent's license or licenses by the insurance regulatory agency of any other state or territory of the United States;

(B) each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license, by the appropriate regulatory authority of this or any other jurisdiction;

(C) each judgment or injunction entered against the licensee on the basis of a violation of any insurance law or conduct involving fraud, deceit or misrepresentation;

(D) all details of any conviction of a misdemeanor or felony other than minor traffic violations. The details shall include the name of the arresting agency, the location and date of the arrest, the nature of the charge or charges, the court in which the case was tried and the disposition rendered by the court;

(E) each change of name. If the change of name is effected by court order, a copy of the court order shall be furnished to the commissioner;

(F) each change in residence or mailing address, email address or telephone number;

(G) each change in the name or address of the agency with which the agent is associated; and

(H) each termination of a business relationship with an insurer if the termination is for cause, including the reason for the termination of the business relationship with such insurer.

(2) Each person or entity licensed in this state as an insurance agent shall provide to the commissioner, upon request, a current listing of company affiliations and affiliated insurance agents.

(3) Each business entity licensed in this state as an insurance agent shall report each change in legal or mailing address, email address and telephone number to the commissioner within 30 days of occurrence.

(4) Each business entity licensed in this state as an insurance agent shall report each change in the name and address of the licensed agent who shall be responsible for the business entity's compliance with the insurance laws of this state to the commissioner within 30 days of occurrence.

(g) Any applicant whose application for a license is denied shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(h) (1) The commissioner may require a person applying for a resident insurance agent license to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal arrests and convictions in this state or other jurisdictions. The commissioner is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the commissioner in the taking and processing of fingerprints of applicants and shall release all records of an applicant's arrests and convictions to the commissioner.

(2) The commissioner may conduct, or have a third party conduct, a background check on a person applying for a resident insurance agent license.

(3) Whenever the commissioner requires fingerprinting, a background check, or both, any associated costs shall be paid by the applicant.

(4) The commissioner ~~may~~ shall use the information obtained from a background check, fingerprinting and the applicant's criminal history only for purposes of verifying the identification of any applicant and in the official determination of the fitness of the applicant to be issued a license as an insurance agent in accordance with this act.

(5) A person applying for a resident insurance agent license who has been fingerprinted and has submitted to a state and national criminal history record check within the past 12 months in connection with the successful issuance or renewal of any other state-issued license may submit proof of such good standing to the commissioner in lieu of submitting to the fingerprinting and criminal history record checks described in subsections (h)(1) and (h)(2).

(i) *Not later than December 1 of each year, the commissioner shall set and publish in the Kansas register the application fee required pursuant to subsection (b) for the next calendar year.*

Sec. 4. K.S.A. 40-4906 is hereby amended to read as follows: 40-4906.

(a) Unless denied licensure pursuant to K.S.A. 40-4909, and amendments thereto, a nonresident person shall receive a nonresident agent license if:

(1) Such person is currently licensed as a resident and in good standing in such person's home state;

(2) such person has submitted the proper request for licensure and has paid to the commissioner a nonrefundable application fee ~~of not to exceed \$30~~ and a biennial fee ~~of not to exceed \$50~~;

(3) such person has submitted or transmitted to the commissioner of

insurance a copy of the application for licensure that such person submitted to such person's home state, or in lieu of the same, a completed application on a form prescribed by the commissioner; and

(4) such person's home state awards a nonresident agent license to residents of this state on the same basis.

(b) The commissioner may verify the insurance agent's licensing status through the producer database maintained by the NAIC, its affiliates or subsidiaries.

(c) (1) Any nonresident agent who is licensed in this state and who moves from one state to another state or a resident agent who moves from this state to another state shall file with the commissioner within 30 days a change of address and provide certification from the new resident state.

(2) Any insurance agent who resides in this state and who moves from this state to another state shall file with the commissioner within 30 days a change of address and provide certification from the new resident state.

(3) No fee or license application shall be required for any filing required by this subsection.

(d) Subject to the provisions of subsection (a), any person licensed as a surplus lines agent in such person's home state shall receive a nonresident surplus lines agent license. Except as provided in subsection (a), nothing in this section shall be construed to amend or supersede any provision of K.S.A. 40-246b, and amendments thereto.

(e) Subject to the provisions of subsection (a), any person licensed as a limited line credit insurance or other type of limited lines agent in such person's home state shall receive a nonresident limited lines agent license in this state granting the same scope of authority as granted under the license issued by the such insurance agent's home state.

(f) *Not later than December 1 of each year, the commissioner shall set and publish in the Kansas register the application fee required pursuant to subsection (a) for the next calendar year.*

Sec. 5. K.S.A. 40-5505 is hereby amended to read as follows: 40-5505.

(a) Before issuing a public adjuster license to an applicant under the public adjusters licensing act, the commissioner shall find that the applicant:

(1) Is eligible to designate this state as the applicant's home state or is a nonresident who is not eligible for a license under K.S.A. 40-5508, and amendments thereto;

(2) has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in K.S.A. 40-5510, and amendments thereto;

(3) is trustworthy, reliable and of good reputation, evidence of which may be determined by the commissioner;

(4) is financially responsible to exercise the rights and privileges under the license and has provided proof of financial responsibility as required in K.S.A. 40-5511, and amendments thereto;

(5) has paid an application fee ~~of~~ *not to exceed* \$100; and

(6) maintains an office in the home state with public access during regular business hours or by reasonable appointment.

(b) In addition to satisfying the requirements of subsection (a), an applicant shall:

(1) Be at least 18 years of age; and

(2) have successfully passed the public adjuster examination.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

(d) (1) The commissioner may require a person applying for a public adjuster license to be fingerprinted and submit to a state and national criminal history record check or to submit to a background check, or both.

(A) The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The commissioner shall submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the commissioner in the taking and processing of fingerprints of applicants and shall release all records of an applicant's arrests and convictions to the commissioner.

(B) The commissioner may conduct or have a third party conduct a background check on a person applying for a public adjuster license.

(2) Whenever the commissioner requires fingerprinting or a background check, or both, any associated costs shall be paid by the applicant.

(3) The commissioner may use the information obtained from a background check, fingerprinting and the applicant's criminal history only for purposes of verifying the identity of the applicant and in the official determination of the fitness of the applicant to be issued a license as a public adjuster in accordance with the public adjusters licensing act.

(e) *Not later than December 1 of each year, the commissioner shall set and publish in the Kansas register the application fees required pursuant to subsection (a) for the next calendar year.*

Sec. 6. K.S.A. 40-246c, 40-4203, 40-4209, 40-4905, 40-4906 and 40-5505 are hereby repealed.

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

Approved April 19, 2023.

CHAPTER 50

HOUSE BILL No. 2093

AN ACT concerning insurance; relating to certain group-funded insurance pools and certain municipal insurance coverage; discontinuing payments paid to the group-funded pools fee fund and the group-funded workers' compensation fee fund; transferring such balances and abolishing such funds; establishing the group-funded pools refund fund; refunding the balance thereof and abolishing such fund on July 1, 2024; adjusting the basis upon which certain premium tax calculations are made; requiring such premium taxes to be paid 90 days after each calendar year and basing such premium taxes upon the gross premiums collected for the previous calendar year; adding fire districts to the definition of "municipality" for purposes of the payment of COBRA premiums under certain circumstances; amending K.S.A. 12-2624, 40-1709 and 44-588 and repealing the existing sections; also repealing K.S.A. 12-2623 and 44-587.

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

New Section 1. (a) There is hereby established in the state treasury the group-funded pools refund fund.

(b) (1) Moneys in the group-funded pools refund fund shall be used only for the purpose of refunding entities that have paid into the group-funded pools fee fund, pursuant to K.S.A. 12-2623, prior to its repeal, and the group-funded workers' compensation fee fund, pursuant to K.S.A. 44-587, prior to its repeal.

(2) Refunds shall be distributed on a pro-rata basis, based upon premium taxes paid by each entity in the 2022 fiscal year.

(3) All expenditures from the group-funded pools refund fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner of insurance or the commissioner's designee.

(c) On July 1, 2023:

(1) The director of accounts and reports shall transfer all moneys in the group-funded pools fee fund, established pursuant to K.S.A. 12-2623, prior to its repeal, and the group-funded workers' compensation fee fund, established pursuant to K.S.A. 44-587, prior to its repeal, to the group-funded pools refund fund;

(2) all liabilities of the group-funded pools fee fund and the group-funded workers' compensation fee fund are hereby transferred to and imposed on the group-funded pools refund fund; and

(3) the group-funded pools fee fund and the group-funded workers' compensation fee fund are hereby abolished.

(d) On July 1, 2024, the group-funded pools refund fund is hereby abolished.

Sec. 2. K.S.A. 12-2624 is hereby amended to read as follows: 12-2624. In addition to the fees required to be paid in K.S.A. ~~12-2622~~ 12-2623, and

amendments thereto, and as a condition precedent to the continuation of the certificate of authority provided in this act, all group-funded pools shall pay ~~no~~ not later than 90 days after the end of each ~~fiscal~~ calendar year a tax upon the annual Kansas gross premium collected by the pool at the rate of 1% per annum applied to the collective premium relating to all Kansas members of the pool for the preceding ~~fiscal~~ calendar year. In the computation of the tax, all pools shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members of such pools or expenditures used for the purchase of specific and aggregate excess insurance, as provided in ~~subsection (h)~~ of K.S.A. 12-2618(h), and amendments thereto.

Sec. 3. K.S.A. 40-1709 is hereby amended to read as follows: 40-1709. (a) (1) Except as provided in paragraph (2), whenever a municipality provides for the payment of premiums for any health benefit plan for its firefighters, it shall pay premiums for the continuation of coverage under COBRA for the surviving spouse and eligible dependent children under the age of 26 years of a firefighter who dies in the line of duty. Premiums for continuation of coverage under COBRA shall be paid for 18 months.

(2) A municipality may not be required to pay the premiums described in paragraph (1) for a surviving spouse:

(A) On or after the end of the 18th calendar month after the date of death of the deceased firefighter;

(B) upon the remarriage of the deceased firefighter's surviving spouse; or

(C) upon the deceased firefighter's surviving spouse reaching the age of 65.

(b) For the purposes of this section:

(1) "Firefighter" means an actual member of an organized fire department, of a municipality, whether regular or volunteer.

(2) "Health benefit plan" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 40-4602, and amendments thereto.

(3) "Municipality" means a city, county, *fire district* or township.

(4) ~~"Postsecondary educational institution" shall have the meaning ascribed to it in K.S.A. 74-3201b, and amendments thereto.~~

Sec. 4. K.S.A. 44-588 is hereby amended to read as follows: 44-588. ~~In addition to the fees required to be paid in K.S.A. 44-587, and amendments thereto, and~~ As a condition precedent to the continuation of the certificate of authority provided in this act, all group-funded workers' compensation funds shall pay ~~no~~ not later than 90 days after the end of each ~~fiscal~~ calendar year a tax upon the annual Kansas gross premium collected by the pool at the rate of 1% per annum applied to the collective premium relating to all Kansas members of the pool for the preceding ~~fiscal~~ calendar year. In the computation of the tax, all pools shall be enti-

tled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members of such pools or expenditures used for the purchase of specific and aggregate excess insurance, as provided in ~~subsection (a) of K.S.A. 44-582(a)~~, and amendments thereto.

Sec. 5. K.S.A. 12-2623, 12-2624, 40-1709, 44-587 and 44-588 are hereby repealed.

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

Approved April 19, 2023.

CHAPTER 51

HOUSE BILL No. 2131

AN ACT concerning the judicial council; relating to duties and mission; abolishing the judicial council fund; transferring all moneys and liabilities of such fund to the state general fund; eliminating the transfer of funds from docket fees to the judicial council fund; transferring annually unencumbered funds from the publications fee fund to the state general fund; amending K.S.A. 20-2203 and K.S.A. 2022 Supp. 20-362, 20-2207 and 20-2208 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 20-362 is hereby amended to read as follows: 20-362. The clerk of the district court shall remit all revenues received from docket fees as follows:

(a) At least monthly to the county treasurer, for deposit in the county treasury and credit to the county general fund:

(1) A sum equal to \$10 for each docket fee paid pursuant to K.S.A. 60-2001 and 60-3005, and amendments thereto, during the preceding calendar month;

(2) a sum equal to \$10 for each \$46 or \$76 docket fee paid pursuant to K.S.A. 61-4001, or K.S.A. 61-2704 or 61-2709, and amendments thereto; and

(3) a sum equal to \$5 for each \$26 docket fee paid pursuant to K.S.A. 61-4001 or K.S.A. 61-2704, and amendments thereto, during the preceding calendar month.

(b) At least monthly to the board of trustees of the county law library fund, for deposit in the fund, a sum equal to the library fees paid during the preceding calendar month for cases filed in the county.

(c) At least monthly to the county treasurer, for deposit in the county treasury and credit to the prosecuting attorneys' training fund, a sum equal to \$2 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month for cases filed in the county and a sum equal to \$1 for each fee paid pursuant to K.S.A. 28-170(c), and amendments thereto, during the preceding calendar month for cases filed in the county.

(d) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury and credit to the law enforcement training center fund a sum equal to \$15 for each docket fee paid pursuant to K.S.A. 28-172a, and amendments thereto, during the preceding calendar month.

(e) To the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, for deposit in the state treasury a sum equal to the balance ~~which~~ *that* remains from all docket fees paid during the preceding calendar month after deduction of the amounts specified

in subsections (a), (b), (c) and (d). ~~Of the balance remitted to the state treasury pursuant to this subsection, the state treasurer shall credit 0.99% to the judicial council fund.~~ During the fiscal year ending June 30, 2022, and each fiscal year thereafter, of the remainder, the state treasurer shall deposit and credit the first \$1,500,000 to the electronic filing and management fund created in K.S.A. 2022 Supp. 20-1a20, and amendments thereto. Of the balance ~~which~~ *that* remains after deduction of the amounts specified in this subsection, the state treasurer shall deposit and credit the remainder to the state general fund.

Sec. 2. K.S.A. 20-2203 is hereby amended to read as follows: 20-2203. It shall be the ~~continuous duty~~ *mission* of the judicial council to ~~survey and study the judicial branch of the state and recommend improvements in~~ the administration of justice *in Kansas and make recommendations for improvements therefor*. The judicial council shall receive and consider suggestions from judges, lawyers, public officials and citizens concerning suggested improvements to the administration of justice. The judicial council may undertake studies in any area of law for the purpose of improving the administration of justice and; may accept assignments from the legislature or the supreme court.

Sec. 3. K.S.A. 2022 Supp. 20-2207 is hereby amended to read as follows: 20-2207. (a) The judicial council may fix, charge and collect fees for sale and distribution of legal publications in order to recover direct and indirect costs incurred for preparation, publication and distribution of legal publications. The judicial council may request and accept gifts, grants and donations from any person, firm, association or corporation or from the federal government or any agency thereof for preparation, publication or distribution of legal publications.

(b) The publications fee fund of the judicial council ~~which~~ *that* was established in the state treasury pursuant to appropriation acts is hereby continued in existence and shall be administered by the judicial council. Revenue from the ~~following sources~~ *fees collected under this section* shall be deposited in the state treasury and credited to ~~such fund~~.

(1) ~~All moneys received by or for the judicial council from fees collected under this section; and~~

(2) ~~the state general fund.~~ All moneys received as gifts, grants or donations for preparation, publication or distribution of legal publications *shall be deposited in the state treasury and credited to the publications fee fund.*

(c) Moneys deposited in the publications fee fund of the judicial council may be expended for operating expenditures related to preparation, publication and distribution of legal publications of the judicial council and for operating expenses that are not related to publication activities.

(d) All expenditures from the publications fee fund shall be made in accordance with appropriation acts upon warrants of the director of ac-

counts and reports issued pursuant to vouchers approved by the chairperson of the judicial council or the chairperson's designee.

Sec. 4. K.S.A. 2022 Supp. 20-2208 is hereby amended to read as follows: 20-2208. ~~There is hereby established in the state treasury the judicial council fund. All expenditures from the judicial council fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to expenditures approved by the chairperson of the Kansas judicial council or by a person or persons designated by the chairperson of the Kansas judicial council.~~ *On July 1, 2023, the director of accounts and reports shall transfer all moneys in the judicial council fund to the state general fund. On July 1, 2023, all liabilities of the judicial council fund are hereby transferred to and imposed on the state general fund, and the judicial council fund is hereby abolished.*

Sec. 5. K.S.A. 20-2203 and K.S.A. 2022 Supp. 20-362, 20-2207 and 20-2208 are hereby repealed.

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

Approved April 19, 2023.

CHAPTER 52

HOUSE BILL No. 2147
(Amended by Chapter 91)

AN ACT concerning motor vehicles; relating to abandoned or towed vehicles; requiring a person providing wrecker or towing service or agency to provide a certification of compliance to a purchaser upon the sale and transfer of an abandoned or towed vehicle; modifying requirements for certified mail notices to prior owners of abandoned or towed vehicles; relating to the uniform act regulating traffic on highways; creating the crime of knowingly or intentionally manufacturing, importing, distributing, selling, offering for sale, installing or reinstalling counterfeit supplemental restraint system components and nonfunctional airbags and providing criminal penalties for violation thereof; expanding permitted lighting equipment on vehicles to include all ground effect lighting; amending K.S.A. 8-1102, 8-1103, 8-1104 and 8-1723 and repealing the existing sections.

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

New Section 1. (a) A public agency or person providing wrecker or towing service shall provide a certification of compliance to a purchaser upon the sale and transfer of a vehicle pursuant to K.S.A. 8-1102 and 8-1103, and amendments thereto. A certification of compliance shall allow such purchaser to apply for and receive a certificate of title from the division of vehicles that is free and clear of all liens, security interests and encumbrances.

(b) A certification of compliance shall be completed on a form and in a manner approved by the secretary of revenue, or the secretary's designee. Such certification of compliance shall certify that the requirements of K.S.A. 8-1102 through 8-1104, and amendments thereto, have been met by the public agency or person providing wrecker or towing service. The certification of compliance form shall be subject to a fee of \$20. All certification of compliance fees collected by the division of vehicles, a contractor or a county treasurer pursuant to this subsection shall be retained by the entity who processed the certification of compliance form.

(c) Certification of compliance fees prescribed by subsection (b) may be applied to the purchaser as part of the sale of a vehicle pursuant to K.S.A. 8-1102 and 8-1103, and amendments thereto. Certification of compliance fees may be applied to the owner of the vehicle if such owner claims the vehicle from a public agency or person providing wrecker or towing service prior to the vehicle being sold at public auction.

(d) A certification of compliance provided for in this section shall also certify that vehicle identification number inspection requirements have been met for any sales of vehicles that are registered or titled in a jurisdiction outside of Kansas in accordance with K.S.A. 8-116a, and amendments thereto.

(e) The provisions of this section shall take effect on and after January 1, 2024.

New Sec. 2. (a) No person shall knowingly or intentionally manufacture, import, distribute, sell, offer for sale, install or reinstall a device intended to replace a supplemental restraint system component if the device is:

- (1) A counterfeit supplemental restraint system component;
- (2) a nonfunctional airbag; or
- (3) any object in lieu of a supplemental restraint system component

that was not designed in accordance with federal safety regulations for the make, model and year of the motor vehicle in which such device is or will be installed.

(b) Violation of subsection (a) shall be a class A nonperson misdemeanor.

(c) As used in this section:

(1) “Airbag” means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

(2) “Counterfeit supplemental restraint system component” means a replacement supplemental restraint system component that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier.

(3) “Nonfunctional airbag” means a replacement airbag that:

- (A) Was previously deployed or damaged;
- (B) has an electric fault that is detected by the motor vehicle’s diagnostic systems when the installation procedure is completed and the motor vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) includes a part or object, including a supplemental restraint system component, installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(D) is prohibited from being sold or leased in accordance with 49 U.S.C. § 30120(j).

(4) “Supplemental restraint system” means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems as described in 49 C.F.R. § 571.208. A supplemental restraint system includes:

(A) Each airbag installed in accordance with the motor vehicle manufacturer’s design; and

(B) all components required to ensure that an airbag operates as designed in the event of a crash and in accordance with the federal motor vehicle safety standards for the specific make, model and year of the motor vehicle.

(d) This section shall be a part of and supplemental to the uniform act regulating traffic on highways.

Sec. 3. On and after January 1, 2024, K.S.A. 8-1102 is hereby amended to read as follows: 8-1102. (a) (1) A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the public agency having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle.

(2) Any motor vehicle ~~which~~ *that* has been impounded as provided in this section for 30 days or more shall be disposed of in the following manner:

(A) If such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with the division, the public agency shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county ~~in which~~ *where* the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, that it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within ~~10~~ *15 calendar* days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection.

(B) After 15 days from date of mailing notice, the public agency shall publish a notice once a week for two consecutive weeks in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, ~~which~~. *Such* notice shall describe the motor vehicle by name of maker, model, serial number, and owner, if known, and stating that it has been impounded by the public agency and that it will be sold at public auction to the highest bidder for cash if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the public agency. If the motor vehicle does not display a registration plate issued by the division of vehicles and is not registered with the division, the public agency after 30 days from the date of impoundment, shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after

such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection. After 15 days from the date of mailing notice, the public agency shall publish a notice in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state that it has been impounded by said public agency and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges incurred by the public agency.

(C) When any public agency has complied with the provisions of this section with respect to an abandoned motor vehicle and the owner thereof does not claim it within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the public agency on such motor vehicle, the public agency may sell the motor vehicle at public auction to the highest bidder for cash. *A public agency shall provide a certification of compliance to a purchaser upon the sale and transfer of a vehicle authorized by this section.*

(3) After any sale pursuant to this section, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of motor vehicles pursuant to this section, after payment of the expenses of the impoundment and sale, shall be paid into the fund of the public agency ~~which~~ *that* is used by it for the construction or maintenance of highways.

(b) Any person who abandons and leaves a vehicle on real property, other than public property or property open to use by the public, ~~which~~ *that* is not owned or leased by such person or by the owner or lessee of such vehicle shall be guilty of criminal trespass, as defined in K.S.A. 2022 Supp. 21-5808, and amendments thereto, and upon request of the owner or occupant of such real property, the public agency in whose jurisdiction such property is situated may remove and dispose of such vehicle in the manner provided in subsection (a), except that the provisions of subsection (a) requiring that a motor vehicle be abandoned for a period of time

in excess of 48 hours prior to its removal shall not be applicable to abandoned vehicles ~~which~~ *that* are subject to the provisions of this subsection. Any person removing such vehicle from the real property at the request of such public agency shall have a possessory lien on such vehicle for the costs incurred in removing, towing and storing such vehicle.

(c) Whenever any motor vehicle has been left unattended for more than 48 hours or when any unattended motor vehicle interferes with public highway operations, any law enforcement officer is hereby authorized to move such vehicle or cause to have the vehicle moved as provided in K.S.A. 8-1103 et seq., and amendments thereto.

(d) The notice provisions of this section shall apply to any motor vehicle ~~which~~ *that* has been impounded as provided in K.S.A. 8-1567, and amendments thereto.

(e) Any person attempting to recover a motor vehicle impounded as provided in this section or in accordance with a city ordinance or county resolution providing for the impoundment of motor vehicles, shall show proof of valid registration and ownership of the motor vehicle to the public agency before obtaining the motor vehicle. In addition, the public agency may require payment of all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to release of the motor vehicle.

Sec. 4. On and after January 1, 2024, K.S.A. 8-1103 is hereby amended to read as follows: 8-1103. (a) (1) Whenever any person providing wrecker or towing service, as defined by K.S.A. 66-1329, and amendments thereto, while lawfully in possession of a vehicle, at the direction of a law enforcement officer or the owner or as provided by a city ordinance or county resolution, renders any service to the owner thereof by the recovery, transportation, protection, storage or safekeeping thereof, a first and prior lien on the vehicle is hereby created in favor of such person rendering such service and the lien shall amount to the full amount and value of the service rendered. The lien may be foreclosed in the manner provided in this act.

(2) If the name of the owner of the vehicle is known to the person in possession of such vehicle, then within 15 days, notice shall be given to the owner that the vehicle is being held subject to satisfaction of the lien. Any vehicle remaining in the possession of a person providing wrecker or towing service for a period of 30 days after such wrecker or towing service was provided may be sold to pay the reasonable or agreed charges for such recovery, transportation, protection, storage or safekeeping of such vehicle and personal property therein, the costs of such sale, the costs of notice to the owner of the vehicle and publication after giving the notices required by this act, unless a court order has been issued to hold such vehicle for the purpose of a criminal investigation or for use as evidence at a trial.

(3) If a court orders any vehicle to be held for the purpose of a criminal investigation or for use as evidence at a trial, then such order shall be in writing, and the court shall assess as costs the reasonable or agreed charges for the protection, storage or safekeeping accrued while the vehicle was held pursuant to such written order.

(4) Any personal property within the vehicle need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid, or satisfactory arrangements for payment have been made, except as provided under subsection (c) or for personal medical supplies which shall be released to the owner thereof upon request. The person in possession of such vehicle and personal property shall be responsible only for the reasonable care of such property. Any personal property within the vehicle not returned to the owner shall be sold at the auction authorized by this act.

(5) *A person providing wrecker or towing service shall provide a certification of compliance to a purchaser pursuant to section 1, and amendments thereto, upon the sale and transfer of a vehicle authorized by this section.*

(b) At the time of providing wrecker or towing service, any person providing such wrecker or towing service shall give written notice to the driver, if available, of the vehicle being towed that a fee will be charged for storage of such vehicle. Failure to give such written notice shall invalidate any lien established for such storage fee.

(c) A city ordinance or county resolution authorizing the towing of vehicles from private property shall specify in such ordinance or resolution:

(1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees;

(2) that an owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner; and

(3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow.

(d) A person providing towing services shall not tow a vehicle to a location outside of Kansas without the consent of either:

(1) The driver or owner of the motor vehicle;

(2) a motor club of which the driver or owner of the motor vehicle is a member; or

(3) the insurance company processing a claim with respect to the vehicle or an agent of such insurance company.

Sec. 5. On and after January 1, 2024, K.S.A. 8-1104 is hereby amended to read as follows: 8-1104. (a) Before any such vehicle and personal property is sold, the person intending to sell such vehicle shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the

division of vehicles not more than 30 days after such person took possession of the vehicle. Every person intending to sell any vehicle pursuant to this section that cannot be verified by the division of vehicles shall obtain an interstate search of registered owners and lienholders unless:

- (1) The vehicle is 15 years of age or older; or
 - (2) the vehicle is determined by the division of vehicles to be a non-repairable vehicle pursuant to K.S.A. 8-135c, and amendments thereto.
- (b) Notice of sale, as provided in this act, shall be mailed by certified mail to any such registered owner and any such lienholders within ~~40~~ *15 calendar* days after receipt of verification of the last owner and any lienholders, if any. The person intending to sell such vehicle and personal property pursuant to this act shall cause a notice of the time and place of sale, containing a description of the vehicle and personal property, to be published in a newspaper published in the county or city where such sale is advertised to take place, and if there is no newspaper published in such county, then the notice shall be published in some newspaper of general circulation in such county. Notices given under this section shall state that if the amount due, together with storage, publication, notice and sale costs, is not paid within 15 days from the date of mailing, the vehicle and personal property will be sold at public auction. Notice of an auction shall be published at least seven days prior to the scheduled auction.

Sec. 6. K.S.A. 8-1723 is hereby amended to read as follows: 8-1723. (a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(d) Any vehicle 80 inches or more in overall width, if not otherwise required by K.S.A. 8-1710, and amendments thereto, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in ~~subsection (g)~~ of K.S.A. 8-1710(g), and amendments thereto.

(e) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.

(f) Any motor vehicle may be equipped with ~~neon~~ ground effect lighting, except that such lighting shall not flash, be any shade of red nor shall any portion of the ~~neon tubes bulb or lighting fixture~~ be visible. “~~Neon~~ Ground effect lighting” means ~~neon tubes lights~~ placed underneath the motor vehicle for the purpose of illuminating the ground below the motor vehicle creating a halo light effect.

(g) Any motor vehicle may be equipped with head lamps which alternately flash or simultaneously flash when such motor vehicle is being used as the lead motor vehicle of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

Sec. 7. K.S.A. 8-1723 is hereby repealed.

Sec. 8. On and after January 1, 2024, K.S.A. 8-1102, 8-1103 and 8-1104 are hereby repealed.

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

Approved April 19, 2023.

CHAPTER 53

HOUSE BILL No. 2335

AN ACT concerning transportation; relating to the rail service improvement program; authorizing loans or grants for qualified track maintenance; providing a definition for qualified track maintenance; increasing the transfer amount from the state highway fund to the rail service improvement fund; amending K.S.A. 2022 Supp. 75-5048 and repealing the existing section.

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

Section 1. K.S.A. 2022 Supp. 75-5048 is hereby amended to read as follows: 75-5048. (a) The secretary of transportation is hereby authorized to make loans or grants to a qualified entity for the purpose of facilitating the financing, acquisition, *qualified track maintenance* or rehabilitation of railroads and rolling stock in the state of Kansas.

(b) Such loans or grants shall be made upon such terms and conditions as the secretary may deem appropriate, and such loans or grants shall be made from funds credited to the rail service improvement fund.

(c) The rail service improvement fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition, *qualified track maintenance* and rehabilitation of railroads pursuant to subsection (a) ~~of this section~~ and for the refinancing thereof. The secretary shall administer the rail service improvement fund. All expenditures from the rail service improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

(d) All moneys received from the federal government, pursuant to K.S.A. 75-5026, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the rail service improvement fund.

(e) The management and investment of the rail service improvement fund shall be in accordance with K.S.A. 68-2324, and amendments thereto. Notwithstanding anything to the contrary, all interest or other income of the investments, after payment of any management fees, shall be considered income of the rail service improvement fund.

(f) On July 1, ~~2013~~ 2023, and each July 1 thereafter, the director of accounts and reports shall transfer ~~\$5,000,000~~ \$10,000,000 from the state highway fund to the rail service improvement fund. The secretary is hereby authorized to transfer moneys from the state highway fund to the rail service improvement fund or from the rail service improvement fund to the state highway fund. In no event shall the amount remaining in the rail

service *improvement* fund and the amount spent or dedicated for loans or grants in each fiscal year be less than ~~-\$5,000,000~~ \$10,000,000.

(g) As used in this section:

(1) (A) “Qualified entity” means:

(i) ~~Any interstate commerce commission-certificated surface transportation board-certificated class II or class III railroad, as defined in 49 C.F.R. § 1201.1-1(a), as in effect on July 1, 2023;~~

(ii) a port authority established in accordance with Kansas laws, ~~or~~;

(iii) any entity meeting the rules and regulations established by K.S.A. 75-5050, and amendments thereto; *or*

(iv) *any owner or lessee industry track, as defined in 49 C.F.R. § 218.93, as in effect on July 1, 2023, located on or adjacent to a class II or class III railroad in the state of Kansas.*

(B) “Qualified entity” *does not include a class I railroad as defined in 49 C.F.R. § 1201.1-1(a), as in effect on July 1, 2023.*

(2) “Qualified track maintenance” *means gross expenditures for the maintenance, reconstruction or replacement of railroad track, including roadbed, bridges, industrial leads and side track, and related track structures to the extent the expenditures are on track located in the state of Kansas and such track was owned or leased by a qualified entity, as defined in paragraph (1)(D) or (E) as of July 1, 2023.*

Sec. 2. K.S.A. 2022 Supp. 75-5048 is hereby repealed.

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

Approved April 19, 2023.

CHAPTER 54

SENATE BILL No. 44*

AN ACT concerning financial institutions; relating to cybersecurity; enacting the Kansas financial institutions information security act; requiring certain covered entities to protect customer information; authorizing the state bank commissioner to adopt rules and regulations; providing penalties for violations of such act.

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

Section 1. (a) Sections 1 through 4, and amendments thereto, shall be known and may be cited as the Kansas financial institutions information security act.

(b) The purpose of the Kansas financial institutions information security act is to establish information security standards for any covered entity consistent with 16 C.F.R. § 314, as in effect on July 1, 2023.

(c) The Kansas financial institutions information security act applies to the handling of customer information by the following covered entities: (1) Credit services organizations, as defined in K.S.A. 50-1117, and amendments thereto; (2) mortgage companies, as defined in K.S.A. 9-2201, and amendments thereto; (3) supervised lenders, as defined in K.S.A. 16a-1-301, and amendments thereto; (4) financial institutions engaging in money transmission, as defined in K.S.A. 9-508, and amendments thereto; (5) trust companies, as defined in K.S.A. 9-701, and amendments thereto; and (6) technology-enabled fiduciary financial institutions, as defined in K.S.A. 9-2301, and amendments thereto.

(d) The commissioner may adopt all rules and regulations necessary to govern and administer the provisions of the Kansas financial institutions information security act.

(e) The Kansas financial institutions information security act shall be a part of and supplemental to chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. As used in the Kansas financial institutions information security act:

(a) “Commissioner” means the state bank commissioner or the commissioner’s designee.

(b) “Covered entity” means each person, applicant, registrant or licensee subject to regulation by the office of the state bank commissioner that is not directly regulated by a federal banking agency.

(c) “Customer information” means any record containing nonpublic personal information about a customer of a covered entity, whether in paper, electronic or other form, that is handled or maintained by or on behalf of the covered entity or its affiliates.

Sec. 3. A covered entity shall:

(a) Set forth standards for developing, implementing and maintaining reasonable safeguards to protect the security, confidentiality and integrity of customer information pursuant to 16 C.F.R. § 314, as in effect on July 1, 2023;

(b) develop and organize its information security program into one or more readily accessible parts; and

(c) maintain its information security program as part of the covered entity's books and records in accordance with the record retention requirements of such covered entity.

Sec. 4. (a) The Kansas financial institutions information security act shall be implemented, administered and enforced by the commissioner.

(b) (1) The commissioner may conduct:

(A) Routine examinations of the operations of a covered entity; or

(B) investigations of the operations of the covered entity if the commissioner has reason to believe that the covered entity has been engaged or is engaging in any conduct in violation of the Kansas financial institutions information security act.

(2) In furtherance of an investigation or examination, or while enforcing the provisions of the Kansas financial institutions information security act, the commissioner may take such action that is necessary and appropriate, including, but not limited to, the following:

(A) Issue subpoenas and seek enforcement thereof in a court of competent jurisdiction;

(B) assess fines or civil penalties on a covered entity not to exceed \$5,000 per violation and assess costs of the investigation, examination or enforcement action;

(C) censure a covered entity if such covered entity is registered or licensed;

(D) enter into a memorandum of understanding or consent order with a covered entity;

(E) issue a summary order to a covered entity;

(F) revoke, suspend or refuse to renew the registration or licensure of a covered entity;

(G) order a covered entity to cease and desist from engaging in any conduct in violation of the Kansas financial institutions information security act or file for an injunction to prohibit the covered entity from continuing such conduct; or

(H) issue emergency orders if necessary to prevent harm to consumers.

(c) Any enforcement action required or requested under the Kansas financial institutions information security act shall be conducted in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto.

(d) Any enforcement action required or requested under the Kansas financial institutions information security act shall be subject to review in accordance with the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

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

Approved April 20, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 55

SENATE BILL No. 75

AN ACT concerning the legal rate of interest; relating to the percentage rate used to calculate interest; amending K.S.A. 16-201 and repealing the existing section.

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

Section 1. K.S.A. 16-201 is hereby amended to read as follows: 16-201. (a) *Except as provided in subsection (b)*, creditors shall be allowed to receive interest at the rate of ~~ten percent~~ *of 10%* per annum; when no other rate of interest is agreed upon, for any money after it becomes due; for money lent or money due on settlement of account, from the day of liquidating the account and ascertaining the balance; for money received for the use of another and retained without the owner's knowledge of the receipt; for money due and withheld by an unreasonable and vexatious delay of payment or settlement of accounts; for all other money due and to become due for the forbearance of payment whereof an express promise to pay interest has been made; and for money due from corporations and individuals to their daily or monthly employees, from and after the end of each month, unless paid within ~~fifteen~~ *15* days thereafter.

(b) *In all civil tort actions filed on or after July 1, 2023, under chapter 60 of the Kansas Statutes Annotated, and amendments thereto, in which the court determines that prejudgment interest shall be awarded, the judgment creditor shall be allowed to receive interest at the rate per annum of two percentage points below the rate per annum specified in K.S.A. 16-204(e)(1), and amendments thereto.*

Sec. 2. K.S.A. 16-201 is hereby repealed.

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

Approved April 20, 2023.

CHAPTER 56

HOUSE BILL No. 2279*

AN ACT concerning water; relating to groundwater management districts; requiring groundwater management districts to submit annual reports to the legislature; directing groundwater management districts to submit conservation and stabilization plans to the chief engineer; prohibiting groundwater management district board members from farming land owned by the district unless a request for proposal for farming such land is issued.

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

Section 1. (a) Not later than January 25 of each year, the board of each district shall submit to the house of representatives standing committee on water, the house of representatives standing committee on agriculture and natural resources, the senate standing committee on agriculture and natural resources and any other appropriate committees, and any successor committees, a written report on the budget, finances and activities of the district. A representative of the board shall appear before the committee upon request.

(b) The annual report shall include, but not be limited to:

(1) An itemized list of all income and the source from which the income was received, including any grants and interest income earned;

(2) an itemized list of all expenditures by the board;

(3) an accounting of all assets currently held by the board;

(4) the most recent approved audit prepared in accordance with K.S.A. 75-1120a, and amendments thereto;

(5) the budget adopted for the current year pursuant to K.S.A. 82a-1026, and amendments thereto;

(6) a detailed description of the activities of the district; and

(7) a detailed statement that explains how the expenditures by the board served to further the conservation and reduced consumptive use of groundwater, the prevention of economic deterioration and the stabilization of agriculture or otherwise supported implementation of the district's management program.

(c) Beginning in January 2025, the report shall summarize the action plans and activities undertaken pursuant to section 2, and amendments thereto.

(d) Each year, each district shall publish the annual written report required by subsection (a) on the district's website.

(e) This section shall be a part of and supplemental to article 10 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. (a) (1) Not later than July 1, 2024, the board of each district shall identify all priority areas of concern within each such board's district and set reasonable boundaries for each area of concern using data from

the Kansas geological survey or any other source approved by the chief engineer. Priority areas of concern include areas where:

(A) The estimated usable lifetime of groundwater is 50 years or less or a similar measure of future water availability can be determined based on local water use and water level data; or

(B) an unreasonable deterioration of the quality of groundwater is occurring.

(2) Priority areas of concern may also include areas where:

(A) Groundwater levels are declining or have declined excessively;

(B) the rate of withdrawal of groundwater equals or exceeds the rate of recharge;

(C) preventable waste of water is occurring or may occur;

(D) an unreasonable deterioration of the quality of groundwater may occur; or

(E) other areas identified by the board of a district and approved by the chief engineer.

(3) After the board of each district identifies priority areas of concern, the board shall submit a report to the chief engineer detailing the priority areas of concern, the nature of such concern and how the areas were identified and developed.

(4) (A) The board of each district shall conduct public education and outreach in each priority area so that the board may develop an action plan to reasonably address the identified concerns in each area based on input from the water right owners and users within the area. Such action plan shall be submitted to the chief engineer by July 1, 2026.

(B) Within 90 calendar days after a district submits an action plan, or any subsequent updates to such action plans as described in subparagraph (C), to the chief engineer, the chief engineer shall review such district's action plan and identified priority areas of concern. If such plan and priority areas are approved by the chief engineer, the chief engineer shall implement any action plan that requires action from the chief engineer. Once a district's action plan has been approved by the chief engineer, the board of each district shall implement the action plan as soon as practicable and incorporate the action plan and priority areas into the district's management program at the next annual review.

(C) At least every five years, the board of each district shall review existing priority areas of concern, any action plans previously adopted and the district at large to identify any new areas that meet the priority area conditions. Upon such review, the board shall update its priority areas of concern and action plan as necessary and shall submit such findings and any updates to the chief engineer.

(b) If a board fails to identify priority areas of concern within a district or to submit an action plan to address the concerns in each area identified,

or subsequent updates to such action plans, or if a board submits a plan that fails to reasonably address the problems within each area identified, the chief engineer may:

- (1) Designate priority areas of concern in accordance with subsection (a);
- (2) create an action plan in accordance with subsection (a); and
- (3) take such corrective actions necessary under the authority granted

to the chief engineer pursuant to the Kansas water appropriations act and Kansas groundwater management act to carry out the action plan.

(c) Upon request of a board, the chief engineer shall review the activities previously undertaken by the board to determine if the board has already complied with some or all of the requirements of this section. All areas within a district that have adopted a local enhanced management area pursuant to K.S.A. 82a-1041, and amendments thereto, on July 1, 2023, shall be considered to be a priority area of concern with an approved action plan in compliance with the requirements of subsections (a)(1) and (a)(4)(B) until the first action plan review pursuant to subsection (a)(4)(C). All areas within a district that have an established intensive groundwater use control area established pursuant to K.S.A. 82a-1036, and amendments thereto, on July 1, 2023, shall be considered to be a priority area of concern with an approved action plan in compliance with the requirements of subsections (a)(1) and (a)(4)(B) until reviewed by the chief engineer pursuant to a schedule established in rules and regulations.

(d) The Kansas department of agriculture, including the division of water resources and the division of conservation, chief engineer, Kansas water office, Kansas department of health and environment, state corporation commission, university of Kansas, Kansas geological survey, Kansas state university, Kansas state university extension system and local conservation districts shall provide assistance and support to each board as is reasonably necessary for the achievement of the goals set forth in this section. The Kansas water authority shall consider the efforts of such agencies to assist the districts when recommending appropriations of the state water plan fund.

(e) This section shall be a part of and supplemental to article 10 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto.

Sec. 3. (a) If a district owns, purchases or otherwise acquires land, no member of the board of such district shall farm such land for profit unless the board issues a request for proposal for farming such land.

(b) This section shall be a part of and supplemental to article 10 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto.

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

CHAPTER 57

House Substitute for SENATE BILL No. 42

AN ACT concerning hospitals; relating to the hospital provider assessment; exempting rural emergency hospitals from such assessment; relating to the qualifications of hospital board members; requiring that a member be a qualified elector of the county where the hospital is located or a qualified elector of an adjacent county and owner of real property in the hospital taxing district and a majority of members be residents of the county where the hospital is located; amending K.S.A. 65-6209 and 80-2506 and repealing the existing sections.

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

Section 1. K.S.A. 65-6209 is hereby amended to read as follows: 65-6209. (a) A hospital provider that is a state agency, the authority, as defined in K.S.A. 76-3304, and amendments thereto, a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, ~~or~~ a critical access hospital, as defined in K.S.A. 65-468, and amendments thereto, *or a rural emergency hospital licensed under the rural emergency hospital act, K.S.A. 2022 Supp. 65-481 et seq., and amendments thereto,* is exempt from the assessment imposed by K.S.A. 65-6208, and amendments thereto.

(b) A hospital operated by the department in the course of performing its mental health or developmental disabilities functions is exempt from the assessment imposed by K.S.A. 65-6208, and amendments thereto.

Sec. 2. K.S.A. 80-2506 is hereby amended to read as follows: 80-2506. (a) Every hospital shall be governed by a board composed of members who are qualified electors *of the county where the hospital is located or of any county adjacent to such county and, if such member is a qualified elector of an adjacent county, such member shall own real property located in the territory included in the taxing district of the hospital.* The board shall be composed of three, five, seven or nine members. *A majority of the members of the board shall be residents of the county where the hospital is located.* Whenever the number of members of a board is increased, the expiration of the terms of the members selected for the new positions on the board shall be fixed to coincide with the expiration of the terms of the members serving on the board at the time of the creation of the new positions so that not more than a simple majority of the members of the board is selected at the same time.

(b) Upon presentation to the board of commissioners of the county ~~in which~~ *where* the hospital district, or the greater portion of the territory thereof, is located, of a petition requesting a change in the number of board members signed by not less than 5% of the qualified electors of the district, it shall be the duty of the board of county commissioners, at its next regular meeting, to examine the petition. The petition shall set forth the requested number of board members. If the board of county commis-

sioners finds that the petition is sufficient and regular and in due form as is provided in this section, the board of county commissioners shall direct the county election officer of the county to prepare ballots for a special election, including ballots for that portion of the district located in any other county. The county election officers of each county shall present the question to the qualified voters of the district at the next general election in the counties, and the board of county commissioners of each county shall certify the results of the votes cast in the county to the board of county canvassers in the county ~~in which~~ *where* the ballots were prepared. The change in number shall become effective at the next election for board members if a majority of the qualified electors voting on the question vote in favor of the change in number of board members.

(c) Subject to the provisions of ~~subsection (b) of~~ K.S.A. 80-2508(b), and amendments thereto, members of the board of every existing hospital shall serve as members of such board for the terms for which they were selected and until their successors are selected and qualified. Except as provided by ~~subsection (a)(4) of~~ K.S.A. 80-2508(a)(4), and amendments thereto, successors to such members shall be selected to serve for a term of three years.

(d) Terms of members of the first board of any hospital established under the provisions of this act shall be as provided for in ~~subsection (b) of~~ K.S.A. 80-2504(b), and amendments thereto, and shall be staggered so that terms of not more than a simple majority of the members expire at the same time. Thereafter, except as provided by ~~subsection (a)(4) of~~ K.S.A. 80-2508(a)(4), and amendments thereto, upon the expiration of terms of members first selected, successors to such members shall be selected to serve for terms of three years.

(e) Vacancies in the membership of a board occasioned by death, removal, resignation or any reason other than expiration of a term shall be filled for the unexpired term by appointment by the chairperson of the board with the advice and consent of the remaining members of the board.

Sec. 3. K.S.A. 65-6209 and 80-2506 are hereby repealed.

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

Approved April 20, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 58

HOUSE BILL No. 2014

AN ACT concerning certain state public health and safety personnel; relating to the state fire marshal; eliminating the statutory qualifications of the chief inspector and deputy inspector for boiler safety; relating to emergency medical services; eliminating the designation and certification of instructor-coordinators; amending K.S.A. 44-918 and K.S.A. 2022 Supp. 65-2891, 65-6102, 65-6112, 65-6124 and 65-6150 and repealing the existing sections; also repealing K.S.A. 2022 Supp. 65-6129b.

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

Section 1. K.S.A. 44-918 is hereby amended to read as follows: 44-918. (a) The state fire marshal may appoint a chief inspector and one or more deputy inspectors who shall be in the unclassified civil service and shall receive such compensation as prescribed by the state fire marshal, subject to the approval of the governor.

(b) The chief inspector and deputy inspectors shall serve under the direction of the state fire marshal. The state fire marshal, chief inspector and other duly authorized representatives of the state fire marshal are hereby charged, directed and empowered:

(1) To take action necessary for the enforcement of this act and of the rules and regulations adopted hereunder;

(2) to maintain a complete record of all boilers and pressure vessels to which this act applies, which record shall include the name and address of each owner or user and the type, dimensions, maximum allowable working pressure, age and last recorded inspection of each such boiler or pressure vessel;

(3) to publish and make available copies of rules and regulations adopted hereunder to any person requesting them;

(4) to issue, or to suspend or revoke for cause, inspection certificates as provided in K.S.A. 44-924, and amendments thereto; and

(5) to cause the prosecution of all violators of the provisions of this act or of the rules and regulations adopted hereunder.

~~(c) (1) A chief inspector shall:~~

~~(A) Have not less than five years of experience in the construction, installation, repair, operation or inspection of boilers, steam generators, super heaters or pressure vessels; and~~

~~(B) hold a commission issued by the national board of boiler and pressure vessel inspectors, and have the following: (i) An in-service commission; (ii) an "A" endorsement; and (iii) a "B" endorsement. If the chief inspector does not have a "B" endorsement, then the chief inspector shall have the ability to acquire a "B" endorsement within 18 months after appointment as chief inspector.~~

~~(2) A deputy inspector shall:~~

~~(A) (i) Have completed courses and training and have experience in the construction, installation, repair, operation or inspection of boilers or pressure vessels, which in the aggregate amounts to not less than two years of time spent on education, training and work experience; or~~

~~(ii) have not less than five years of experience in the heating, ventilation, air conditioning or plumbing fields related to the installation or repair of boilers or pressure vessels; and~~

~~(B) hold an in-service commission issued by the national board of boiler and pressure vessel inspectors. If the deputy inspector does not have an in-service commission, then the deputy inspector shall have the ability to acquire such commission within 12 months after appointment as deputy inspector.~~

Sec. 2. K.S.A. 2022 Supp. 65-2891 is hereby amended to read as follows: 65-2891. (a) Any healthcare provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any healthcare provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such healthcare provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any healthcare provider may in good faith render emergency care or assistance during an emergency that occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care. The healthcare provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

~~(d) Any provision herein contained notwithstanding~~ *Except as otherwise provided*, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section ~~the term~~, "healthcare provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical thera-

pist, and any *licensed* physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physician assistants of the American board of medical examiners, any licensed athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid emergency medical service provider's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and by the emergency medical services board or any person engaged in a postgraduate training program approved by the state board of healing arts.

Sec. 3. K.S.A. 2022 Supp. 65-6102 is hereby amended to read as follows: 65-6102. (a) There is hereby established the emergency medical services board. The office of the emergency medical services board shall be located in the city of Topeka, Kansas.

(b) The emergency medical services board shall be composed of 15 members to be appointed as follows:

(1) Eleven members shall be appointed by the governor. Of such members:

(A) Three shall be physicians who are actively involved in emergency medical services;

(B) two shall be county commissioners of counties making a levy for ambulance service, at least one of whom shall be from a county having a population of less fewer than 15,000;

(C) one shall be an instructor-coordinator *actively involved in teaching initial courses of instruction for certification as an emergency medical service provider*;

(D) one shall be a hospital administrator actively involved in emergency medical services;

(E) one shall be a member of a firefighting unit that provides emergency medical service; and

(F) three shall be emergency medical service providers who are actively involved in emergency medical service. At least two classifications of emergency medical service providers shall be represented. At least one of such members shall be from a volunteer emergency medical service; and

(2) four members shall be appointed as follows:

(A) One shall be a member of the Kansas senate to be appointed by the president of the senate;

(B) one shall be a member of the Kansas senate to be appointed by the minority leader of the senate;

(C) one shall be a member of the Kansas house of representatives to be appointed by the speaker of the house of representatives; and

(D) one shall be a member of the Kansas house of representatives to be appointed by the minority leader of the house of representatives.

(c) All members of the board shall be residents of the state of Kansas. Appointments to the board shall be made with due consideration that representation of the various geographical areas of the state is ensured. The governor may remove any member of the board upon recommendation of the board. Any person appointed to a position on the board shall forfeit such position upon vacating the office or position that qualified such person to be appointed as a member of the board.

(d) Members shall be appointed for terms of four years and until their successors are appointed and qualified. In the case of a vacancy in the membership of the board, the vacancy shall be filled for the unexpired term.

(e) The board shall meet at least four times annually and at least once each quarter and at the call of the chairperson or at the request of the executive director of the emergency medical services board or of any seven members of the board. At the first meeting of the board after January 1 each year, the members shall elect a chairperson and a ~~vice chairperson~~ *vice chairperson* who shall serve for a term of one year. The ~~vice chairperson~~ *vice chairperson* shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of the chairperson or ~~vice chairperson~~ *vice chairperson*, the board shall fill such vacancy by election of one of its members to serve the unexpired term of such office. Members of the board attending meetings of the board or attending a subcommittee meeting thereof authorized by the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(f) Except as otherwise provided by law, all vouchers for expenditures and all payrolls of the emergency medical services board shall be approved by the emergency medical services board or a person designated by the board.

Sec. 4. K.S.A. 2022 Supp. 65-6112 is hereby amended to read as follows: 65-6112. As used in article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto:

(a) "Administrator" means the executive director of the emergency medical services board.

(b) "Advanced emergency medical technician" means a person who holds an advanced emergency medical technician certificate issued pursuant to this act.

(c) “Advanced practice registered nurse” means an advanced practice registered nurse as defined in K.S.A. 65-1113, and amendments thereto.

(d) “Ambulance” means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured.

(e) “Ambulance service” means any organization operated for the purpose of transporting sick or injured persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency or medical care in transit.

(f) “Board” means the emergency medical services board established pursuant to K.S.A. 65-6102, and amendments thereto.

(g) “Emergency medical service” means the effective and coordinated delivery of such care as may be required by an emergency that includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced practice registered nurse, professional nurse, a licensed physician assistant or emergency medical service provider.

(h) “Emergency medical service provider” means an emergency medical responder, advanced emergency medical technician, emergency medical technician or paramedic certified by the emergency medical services board.

(i) “Emergency medical technician” means a person who holds an emergency medical technician certificate issued pursuant to this act.

(j) “Emergency medical responder” means a person who holds an emergency medical responder certificate issued pursuant to this act.

(k) “Hospital” means a hospital as defined by K.S.A. 65-425, and amendments thereto.

~~(l) “Instructor coordinator” means a person who is certified under this act to teach or coordinate both initial certification and continuing education classes.~~

~~(m)~~ “Medical director” means a physician.

~~(n)~~(m) “Medical oversight” means to review, approve and implement medical protocols and to approve and monitor the activities, competency and education of emergency medical service providers.

~~(o)~~(n) “Medical protocols” means written guidelines that authorize emergency medical service providers to perform certain medical procedures prior to contacting a physician, physician assistant authorized by a physician, advanced practice registered nurse authorized by a physician or professional nurse authorized by a physician.

~~(p)~~(o) “Municipality” means any city, county, township, fire district or ambulance service district.

~~(q)~~(p) “Nonemergency transportation” means the care and transport of a sick or injured person under a foreseen combination of circumstances calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the emergency medical service provider whether within or outside the vehicle as part of such transportation services.

~~(r)~~(q) “Operator” means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

~~(s)~~(r) “Paramedic” means a person who holds a paramedic certificate issued pursuant to this act.

~~(t)~~(s) “Person” means an individual, a partnership, an association, a joint-stock company or a corporation.

~~(u)~~(t) “Physician” means a person licensed by the state board of healing arts to practice medicine and surgery.

~~(v)~~(u) “Physician assistant” means a physician assistant as defined in K.S.A. 65-28a02, and amendments thereto.

~~(w)~~(v) “Professional nurse” means a licensed professional nurse as defined by K.S.A. 65-1113, and amendments thereto.

~~(x)~~(w) “Sponsoring organization” means any professional association, accredited postsecondary educational institution, ambulance service that holds a permit to operate in this state, fire department, other officially organized public safety agency, hospital, corporation, governmental entity or emergency medical services regional council, as approved by the executive director, to offer initial courses of instruction or continuing education programs.

Sec. 5. K.S.A. 2022 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, physician assistant, advanced practice registered nurse or licensed professional nurse who gives emergency instructions to an emergency medical service provider during an emergency shall be liable for any civil damages as a result of issuing the instructions, except such damages that may result from gross negligence in giving such instructions.

(b) No emergency medical service provider who renders emergency care during an emergency pursuant to instructions given by a physician, physician assistant, advanced practice registered nurse or licensed professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages that may result from gross negligence or by willful or wanton acts or omissions on the part of such emergency medical service provider.

~~(c) No person certified as an instructor coordinator shall be liable for any civil damages that may result from such instructor coordinator’s course of instruction, except such damages that may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor coordinator.~~

(d) No medical director who provides medical oversight shall be liable for any civil damages as a result of such medical oversight, except such damages that may result from gross negligence in the provision of such medical oversight.

Sec. 6. K.S.A. 2022 Supp. 65-6150 is hereby amended to read as follows: 65-6150. (a) It shall be unlawful for any individual to represent oneself as an emergency medical service provider ~~or instructor coordinator~~ unless such individual holds a valid certificate as such under this act.

(b) Any violation of subsection (a) shall constitute a class B misdemeanor.

Sec. 7. K.S.A. 44-918 and K.S.A. 2022 Supp. 65-2891, 65-6102, 65-6112, 65-6124, 65-6129b and 65-6150 are hereby repealed.

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

Approved April 20, 2023.

CHAPTER 59

Senate Substitute for HOUSE BILL No. 2302

TO	SEC.
State treasurer	1, 2

AN ACT concerning water; relating to funding for the state water plan and water infrastructure projects; making and concerning appropriations for the fiscal year ending June 30, 2023, and June 30, 2024, for the state treasurer; providing for a transfer of moneys from the state general fund to the state water plan fund; creating the water technical assistance fund and water projects grant fund; authorizing the Kansas water office to provide grants from such funds and adopt rules and regulations to establish the criteria for grants from such funds; amending K.S.A. 82a-951 and repealing the existing section.

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

New Section 1.

STATE TREASURER

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 2023, the following:

Water supply storage debt payment for
 Milford and Perry reservoirs\$52,000,000

Provided, That notwithstanding the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, or any other statute, the state treasurer shall invest, or in the state treasurer’s discretion direct the pooled money investment board to invest, all moneys in the water supply storage debt payment for Milford and Perry reservoirs account in United States treasury bills until the interest rate for such treasury bills is equal to or less than the interest rate for water supply storage debt payments as determined by the state treasurer: *Provided further*, That upon determination of the state treasurer that the United States treasury bill rate is equal to or less than the interest rate on such storage debt, expenditures shall be made by the above agency from the water supply storage debt payment for Milford and Perry reservoirs account during fiscal year 2023 for the payment of water supply storage debt for Milford and Perry reservoirs: *Provided, however*, That if, during the fiscal year ending June 30, 2023, the director of the Kansas water office certifies to the state treasurer and the governor that there is a need for the Kansas water office to call the water supply storage into service, the state finance council shall authorize the state treasurer to immediately make expenditures from the water supply storage debt payment for Milford and Perry reservoirs account for the payment of water supply storage debt for Milford and Perry reservoirs: *And provided further*, That such state finance council action on this matter is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto,

except that such authorization also may be given while the legislature is in session: *And provided further*, That at the same time such certification is transmitted to the state treasurer and the governor, the director of the Kansas water office shall transmit a copy of such certification to the director of the budget and the director of legislative research.

New Sec. 2.

STATE TREASURER

(a) Any unencumbered balance in the water supply storage debt payment for Milford and Perry reservoirs account in excess of \$100 as of June 30, 2023, is hereby reappropriated for fiscal year 2024: *Provided*, That notwithstanding the provisions of article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto, or any other statute, the state treasurer shall invest, or in the state treasurer's discretion direct the pooled money investment board to invest, all moneys in the water supply storage debt payment for Milford and Perry reservoirs account in United States treasury bills until the interest rate for such treasury bills is equal to or less than the interest rate for water supply storage debt payments as determined by the state treasurer: *Provided further*, That upon determination of the state treasurer that the United States treasury bill rate is equal to or less than the interest rate on such storage debt, expenditures shall be made by the above agency from the water supply storage debt payment for Milford and Perry reservoirs account during fiscal year 2024 for the payment of water supply storage debt for Milford and Perry reservoirs: *Provided, however*, That if, during the fiscal year ending June 30, 2024, the director of the Kansas water office certifies to the state treasurer and the governor that there is a need for the Kansas water office to call the water supply storage into service, the state finance council shall authorize the state treasurer to immediately make expenditures from the water supply storage debt payment for Milford and Perry reservoirs account for the payment of water supply storage debt for Milford and Perry reservoirs: *And provided further*, That such state finance council action on this matter is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto, except that such authorization also may be given while the legislature is in session: *And provided further*, That at the same time such certification is transmitted to the state treasurer and the governor, the director of the Kansas water office shall transmit a copy of such certification to the director of the budget and the director of legislative research.

New Sec. 3. (a) On July 1, 2023, the director of accounts and reports shall transfer \$35,000,000 from the state general fund to the state water plan fund. It is the intent of the legislature to provide for the transfer of \$35,000,000 from the state general fund to the state water plan fund on July 1, 2024, July 1, 2025, July 1, 2026, and July 1, 2027.

(b) (1) The state water plan fund shall continue to be appropriated and expended for the purposes prescribed in K.S.A. 82a-951, and amendments thereto, except that if an appropriation is made for any fiscal year as intended in subsection (a), on July 1 of such fiscal year, or as soon thereafter on such dates as moneys are available:

(A) \$5,000,000 shall be transferred from the state water plan fund to the water technical assistance fund established in section 4, and amendments thereto; and

(B) \$12,000,000 shall be transferred from the state water plan fund to the water projects grant fund established in section 5, and amendments thereto.

(2) The provisions of this section shall expire on July 1, 2028. On July 1, 2028, the director of accounts and reports shall transfer all moneys in the water technical assistance fund and the water projects grant fund to the state water plan fund and all liabilities of the water technical assistance fund and the water projects grant fund shall be imposed upon the state water plan fund. On July 1, 2028, the water technical assistance fund and the water projects grant fund shall be abolished.

(c) (1) (A) Notwithstanding any restrictions in K.S.A. 82a-951, and amendments thereto, the Kansas water authority may recommend to the legislature the appropriation of up to 10% of the unencumbered balance of the state water plan fund to be used to supplement salaries of existing state agency full-time equivalent employees and for funding new full-time equivalent positions created to implement the state water plan. Moneys from such appropriation may be used to supplement existing positions, but such moneys shall not be used to replace state general fund moneys, any fee fund moneys or other funding for positions existing on July 1, 2023.

(B) Eligible full-time equivalent positions that moneys may be used for pursuant to this paragraph include engineers, geologists, hydrologists, environmental scientists, attorneys, resource planners, grant specialists and any other similar positions.

(2) If at least two conservation districts present a joint proposal to the Kansas water authority for a position or positions to provide shared services to all districts involved in such proposal, the Kansas water authority may recommend that moneys be used to supplement the salary or salaries of such position or positions pursuant to paragraph (1).

(3) The Kansas water authority shall encourage funding requests from state and local entities that cooperate with qualified nonprofit entities on projects that provide a direct benefit to water quantity and quality, including water infrastructures that are both natural and constructed, and include matching funds from non-state sources.

(4) The Kansas water authority may direct the Kansas water office to provide funding pursuant to section 4 or section 5, and amendments

thereto, for the improvement of water infrastructure in an unincorporated area related to or serving a national park site or state historic site if the request for funding is made by a nonprofit organization or state agency that is willing to administer the moneys and oversee the project, and the Kansas water authority deems such applicant capable of successfully managing the project. Upon receipt of such a request, the Kansas water office may award moneys in any fiscal year prior to July 1, 2028, with such awarding of moneys to be made at the discretion of the Kansas water office.

(5) The Kansas water authority shall encourage the creation of grant programs for stockwatering conservation projects. Such grant programs shall prioritize the use of fees collected pursuant to K.S.A. 82a-954(a)(3), and amendments thereto.

(d) All reporting requirements established in K.S.A. 82a-951, and amendments thereto, shall continue and such reporting requirements shall apply to the water technical assistance fund established in section 4, and amendments thereto, and the water projects grant fund established in section 5, and amendments thereto.

New Sec. 4. (a) (1) There is hereby established in the state treasury the water technical assistance fund. The fund shall be administered by the Kansas water office. Expenditures from such fund shall be used for the purposes described in subsection (b). All expenditures shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office, or such director's designee.

(2) Whenever the unencumbered balance of the water technical assistance fund exceeds \$15,000,000, such excess moneys may be recommended for appropriation by the Kansas water authority for the same purposes as any other moneys in the state water plan fund are appropriated.

(b) (1) The water technical assistance fund shall be used by the Kansas water office to provide grants for the planning, engineering, managing and other technical assistance that may be necessary in the development of plans for water infrastructure projects or for processing the grant and loan applications for such water infrastructure projects. The Kansas water office may offer services directly, provide funding to other organizations to provide such services at no cost to a municipality or special district related to water or the Kansas water office may provide grants directly to applicants to cover expenses related to the hiring of such technical assistance.

(2) Any municipality or special district related to water organized under the laws of the state of Kansas may apply for a grant, and the Kansas water office is authorized to award full or partial grants to such applicants. Municipalities with fewer than 2,000 residents shall be prioritized for the awarding of full grants. Watershed districts, conservation districts,

groundwater management districts and all special districts related to water shall not be prioritized for the awarding of full grants for the purposes of this section.

(c) The Kansas water office shall adopt rules and regulations to establish any necessary criteria for administering the water technical assistance fund and awarding grants for technical assistance. Such criteria shall include, but not be limited to, factors applicable to:

(1) Municipalities of different populations including the prioritization of small municipalities as required by subsection (b)(2). Such factors may include, but not be limited to, public health, socio-economic factors and the ability for a municipality to repay any loans without grant assistance; and

(2) special districts such as watershed districts, conservation districts, groundwater management districts, rural water districts and any other similar districts formed for a special or single purpose related to water.

(d) No single grant awarded for technical assistance pursuant to this section shall exceed \$1,000,000 unless specified by any appropriation act of the Kansas legislature.

New Sec. 5. (a) (1) There is hereby established in the state treasury the water projects grant fund. The fund shall be administered by the Kansas water office. Expenditures from such fund shall be used for the purposes described in subsection (b). All expenditures shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office, or such director's designee.

(2) Whenever the unencumbered balance of the water projects grant fund exceeds \$35,000,000, the director of the Kansas water office shall certify such excess amount to the director of accounts and reports. Upon receipt of such certification, the director of accounts and reports shall transfer the certified excess amount from the water projects grant fund to the state general fund.

(b) The Kansas water office may provide full or partial funding in the form of grants to any municipality or special district related to water established pursuant to the laws of the state of Kansas for the following:

(1) Construction, repair, maintenance or replacement of water-related infrastructures and any related construction costs;

(2) matching moneys for grant or loan applications for water-related infrastructure projects; and

(3) grants that may be applied to an outstanding loan balance from the public water supply loan fund established in K.S.A. 65-163e, and amendments thereto, or the Kansas pollution control revolving fund established in K.S.A. 65-3322, and amendments thereto, subject to the provisions of subsection (c).

(c) The Kansas water office shall adopt rules and regulations to establish any necessary criteria for grants from the water projects grant fund. Such rules and regulations shall include any necessary criteria that may be applied to the selection of projects with outstanding loan balances from the public water supply loan fund established in K.S.A. 65-163e, and amendments thereto, or the Kansas pollution control revolving fund established in K.S.A. 65-3322, and amendments thereto. Such criteria shall be based on the following factors:

(1) The planned construction on the project with the outstanding loan balance is complete;

(2) the municipality or special district has made at least five years of payments on such project loans;

(3) awarding grants that provide repayment of up to:

(A) 90% of any remaining project loan balance for cities with fewer than 2,000 residents;

(B) 75% of any remaining project loan balance for cities with fewer than 5,000 residents;

(C) 50% of any remaining project loan balance for cities with fewer than 10,000 residents; and

(D) 25% of any remaining project loan balance for all other cities in Kansas; and

(4) any other relevant criteria including, but not limited to, the socio-economic status of the residents of any municipality, public health and the ability of any municipality to repay a loan without further assistance.

(d) No single grant awarded for a project pursuant to this section shall be greater than \$8,000,000 unless specified by any appropriation act of the Kansas legislature.

(e) The Kansas water office and the department of health and environment shall coordinate the sharing of information regarding applicants for loans from the public water supply loan fund established in K.S.A. 65-163e, and amendments thereto, and the Kansas pollution control revolving fund established in K.S.A. 65-3322, and amendments thereto, and shall take into consideration the approval or likely approval of a grant by the Kansas water office when considering the eligibility of any municipality to receive moneys from such funds.

Sec. 6. K.S.A. 82a-951 is hereby amended to read as follows: 82a-951. (a) ~~On and after July 1, 1989,~~ There is hereby created, in the state treasury, the state water plan fund. All moneys in the state water plan fund shall be expended in accordance with appropriations acts for implementation of the state water plan formulated pursuant to K.S.A. 82a-903 et seq., and amendments thereto. *Except as provided in section 3, and amendments thereto,* such moneys shall be used only for the establishment and implementation of water-related projects or programs, and related technical

assistance, and shall not be used for: (1) Replacing full time equivalent positions of any state agency; or (2) recreational projects which do not meet one or more of the long-range goals, objectives and considerations set forth in the state water resource planning act.

(b) On or before December 1 of each year, the Kansas water authority shall submit to the governor and the legislature a report setting out: (1) An account of all moneys expended from the state water plan fund, *the water technical assistance fund and the water projects grant fund* during *each* such fiscal year; and (2) a five-year capital development plan for state water plan projects.

Sec. 7. K.S.A. 82a-951 is hereby repealed.

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

Approved April 20, 2023.

Published in the *Kansas Register* April 27, 2023.

CHAPTER 60

SENATE BILL No. 132*

AN ACT concerning motor vehicles; relating to distinctive license plates; providing for the buffalo soldier license plate.

WHEREAS, Buffalo soldiers were African American soldiers who mainly served on the western frontier following the American civil war; and

WHEREAS, In 1866, six all-black cavalry and infantry regiments were created after congress passed the army organization act; and

WHEREAS, The soldiers of the all-black 9th and 10th cavalry regiments were dubbed “buffalo soldiers” by the native Americans; and

WHEREAS, In 1867, the 10th cavalry was based in Fort Leavenworth, Kansas, and commanded by Colonel Benjamin Grierson; and

WHEREAS, About 20% of U.S. cavalry troops that participated in what is commonly known as the Indian wars were buffalo soldiers, who participated in at least 177 conflicts; and

WHEREAS, These same units were critical to the Spanish American war, conflicts in the Philippines, World War I and World War II; and

WHEREAS, Often facing blatant racism and enduring brutal weather conditions, buffalo soldiers earned a reputation for serving courageously; and

WHEREAS, In 1948, President Harry Truman issued executive order 9981 eliminating racial segregation in America’s armed forces, resulting in the disbanding of all-black units during the 1950s; and

WHEREAS, The installation of the buffalo soldier monument at Fort Leavenworth was initiated by General Colin Powell, chairman of the joint chiefs of staff, who was the first African American to serve in that capacity and dedicated in 1992 to the memory of the 9th and 10th cavalry regiments of the U.S. army; and

WHEREAS, The buffalo soldier legacy continues to ensure that the rich heritage of African Americans and their profound effect on American society will not be lost; and

WHEREAS, There exists on Fort Leavenworth a museum called the frontier museum, currently a world-class museum, that tells the story of Fort Leavenworth from 1827 to 1917 and the history of the frontier army from 1804 when Lewis and Clark passed through; and

WHEREAS, There is an effort, supported by Fort Leavenworth leadership and the department of defense, to reimagine the frontier army museum and make it more accessible to the public; and

WHEREAS, A new frontier army museum is being planned outside the gates of Fort Leavenworth that will tell the story of the frontier and will include a focus on the buffalo soldiers; and

WHEREAS, A current museum is within close proximity to the future site of the frontier army museum, named the Richard Allen cultural center, housed in the former home of a buffalo soldier; and

WHEREAS, Part of the Richard Allen cultural center's mission is to tell the story of the buffalo soldier and more broadly the African American experience locally; and

WHEREAS, The Richard Allen cultural center stands in support of this new frontier army museum in expanding the channels to tell that story in the context of the military and will dedicate a portion of the funds generated from the issuance of this license plate to that new museum. The Richard Allen cultural center works with the charitable organization established by the 9th and 10th cavalry regiments to support other parts of its mission such as tutoring at risk children in the area; and

WHEREAS, This reimagined army museum will be built and run with private funds, with this being but one of those funding sources.

Now, therefore:

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

Section 1. (a) On and after January 1, 2024, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one buffalo soldier license plate for each such passenger vehicle or truck. Such license plate shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and either the payment to the county treasurer of the logo use royalty payment or the presentation of the annual logo use authorization statement provided for in subsection (b).

(b) The Richard Allen cultural center & museum, inc. may authorize the use of the organization's logo to be affixed on license plates as provided by this section. Any motor vehicle owner or lessee may apply annually to the Richard Allen cultural center & museum, inc. for use of such logo. Such owner or lessee shall pay an amount of not less than \$25 nor more than \$100 to the Richard Allen cultural center & museum, inc. as a logo use royalty payment for each such license plate to be issued. The logo use royalty payment shall be paid to either:

(1) The Richard Allen cultural center & museum, inc., which shall issue to the motor vehicle owner or lessee, without further charge, a logo use authorization statement that shall be presented by the motor vehicle owner or lessee at the time of registration; or

(2) the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such

person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall either provide the annual logo use authorization statement provided for in subsection (b) or pay to the county treasurer the logo use royalty payment. Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a buffalo solder license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A. 8-143, and amendments thereto, and in the manner prescribed in K.S.A. 8-132(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual logo use authorization statement provided for in subsection (b) or the payment of the annual royalty payment. If such statement is not presented at the time of registration or sent by the Richard Allen cultural center & museum, inc., or the annual royalty payment is not made to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Richard Allen cultural center & museum, inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Richard Allen cultural center & museum, inc. for information concerning the application process or the status of such applicant's license plate application.

(h) The Richard Allen cultural center & museum, inc., with the approval of the director of vehicles, shall design a plate to be issued under the provisions of this section.

(i) As a condition of receiving the buffalo soldier license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, royalty payment amount, plate number and vehicle type to the Richard Allen cultural center & museum, inc. and the state treasurer.

(j) The collection and remittance of annual royalty payments by the county treasurer shall be subject to the provisions of K.S.A. 8-1,141(h), and amendments thereto, except that payments from the buffalo soldier royalty fund shall be made on a monthly basis to the Richard Allen cultural center & museum, inc. of which a portion of such funds shall

be dedicated to the construction and maintenance of the reimagined frontier museum.

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

Approved April 20, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 61

SENATE BILL No. 66

AN ACT concerning occupational licensure; relating to teacher licensure; enacting the interstate teacher mobility compact; recognizing equivalent teacher licenses from other member states; requiring that licensing bodies provide verified electronic credentials, in addition to paper-based credentials, to all credential holders, including military servicemembers and others receiving Kansas credentials based on their credentials from other jurisdictions; requiring licensing bodies to use centralized electronic credential data management systems capable of providing instantaneous credential verification; mandating that such systems maintain an auditable record; excepting certification of law enforcement officers from such electronic credential requirements and other provisions; amending K.S.A. 2022 Supp. 48-3406 and repealing the existing section.

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

New Section 1. This section shall be known and may be cited as the interstate teacher mobility compact.

INTERSTATE TEACHER MOBILITY COMPACT

ARTICLE I

PURPOSE

(a) The purpose of this compact is to facilitate the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. Through this compact, the member states seek to establish a collective regulatory framework that expedites and enhances the ability of teachers to move across state lines.

(b) (1) This compact is intended to achieve the following objectives and should be interpreted accordingly:

- (A) Create a streamlined pathway to licensure mobility for teachers;
- (B) support the relocation of eligible military spouses;
- (C) facilitate and enhance the exchange of licensure, investigative and disciplinary information between the member states;
- (D) enhance the power of state and district level education officials to hire qualified, competent teachers by removing barriers to the employment of out-of-state teachers;
- (E) support the retention of teachers in the profession by removing barriers to relicensure in a new state; and
- (F) maintain state sovereignty in the regulation of the teaching profession.

(2) The member states hereby ratify the same intentions by subscribing thereto.

ARTICLE II

DEFINITIONS

As used in this compact, and except as otherwise provided, the following definitions shall govern the terms herein:

(a) “Active military member” means any person with full-time duty status in the armed forces of the United States, including members of the national guard and reserve.

(b) “Adverse action” means any limitation or restriction imposed by a member state’s licensing authority, such as revocation, suspension, reprimand, probation or limitation on the licensee’s ability to work as a teacher.

(c) “Bylaws” means those bylaws established by the commission.

(d) “Career and technical education license” means a current, valid authorization issued by a member state’s licensing authority allowing an individual to serve as a teacher in P-12 public educational settings in a specific career and technical education area.

(e) “Charter member states” means a member state that has enacted legislation to adopt this compact where such legislation predates the initial meeting of the commission after the effective date of the compact.

(f) “Commission” means the interstate teacher mobility compact commission which is the interstate administrative body that has a membership consisting of delegates of all states that have enacted this compact.

(g) “Commissioner” means the delegate of a member state.

(h) “Eligible license” means a license to engage in the teaching profession that requires at least a bachelor’s degree and the completion of a state-approved program for teacher licensure.

(i) “Eligible military spouse” means the spouse of any individual in full-time duty status in the active armed forces of the United States including members of the national guard and reserve moving as a result of a military mission or military career progression requirements or are on a terminal move as a result of separation or retirement, including surviving spouses of deceased military members.

(j) “Executive committee” means a group of commissioners elected or appointed to act on behalf of, and within the powers granted by, the commission as provided for herein.

(k) “Licensing authority” means an official, agency, board or other entity of a state that is responsible for the licensing and regulation of teachers authorized to teach in P-12 public educational settings.

(l) “Member state” means any state that has adopted this compact, including all agencies and officials of such state.

(m) “Receiving state” means any state where a teacher has applied for licensure under this compact.

(n) “Rule” means any regulation promulgated by the commission under this compact, which shall have the force of law in each member state.

(o) “State” means a state, territory or other possession of the United States and the District of Columbia.

(p) “State practice laws” means a member state’s laws and rules and regulations that govern the teaching profession, define the scope of such profession and create the methods and grounds for imposing discipline.

(q) “State specific requirements” means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state.

(r) “Teacher” means an individual who currently holds an authorization from a member state that forms the basis for employment in the P-12 public schools of the state to provide instruction in a specific subject area, grade level or student population.

(s) “Unencumbered license” means a current, valid authorization issued by a member state’s licensing authority allowing an individual to serve as a teacher in P-12 public educational settings. An “unencumbered license” is not a restricted, probationary, provisional, substitute or temporary credential.

ARTICLE III

LICENSURE UNDER THE COMPACT

(a) Licensure under this compact pertains only to the initial grant of a license by the receiving state. Nothing herein applies to any subsequent or ongoing compliance requirements that a receiving state might require for teachers.

(b) Each member state shall, in accordance with the rules of the commission, define, compile and update as necessary, a list of eligible licenses and career and technical education licenses that the member state is willing to consider for equivalency under this compact and provide the list to the commission. The list shall include those licenses that a receiving state is willing to grant to teachers from other member states, pending a determination of equivalency by the receiving state’s licensing authority.

(c) Upon the receipt of an application for licensure by a teacher holding an unencumbered eligible license, the receiving state shall determine which of the receiving state’s eligible licenses the teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the receiving state’s licensing authority and may include a determination that the applicant is not eligible for any of the receiving state’s eligible licenses. For all teachers who hold an unencumbered license, the receiving state shall grant one or more unencumbered license that, in the receiving state’s sole discretion, are equivalent to the license held by the teacher in any other member state.

(d) For active military members and eligible military spouses who hold a license that is not unencumbered, the receiving state shall grant an equivalent license or licenses that, in the receiving state’s sole discretion, is equivalent to the license or licenses held by the teacher in any other

member state, except where the receiving state does not have an equivalent license.

(e) For a teacher holding an unencumbered career and technical education license, the receiving state shall grant an unencumbered license equivalent to the career and technical education license held by the applying teacher and issued by another member state, as determined by the receiving state in its sole discretion, except where a career and technical education teacher does not hold a bachelor's degree and the receiving state requires a bachelor's degree for licenses to teach career and technical education. A receiving state may require career and technical education teachers to meet state industry recognized requirements, if required by law in the receiving state.

ARTICLE IV LICENSURE NOT UNDER THE COMPACT

(a) Except as provided in article III, nothing in this compact shall be construed to limit or inhibit the power of a member state to regulate licensure or endorsements overseen by the member state's licensing authority.

(b) When a teacher is required to renew a license received pursuant to this compact, the state granting such a license may require the teacher to complete state specific requirements as a condition of licensure renewal or advancement in that state.

(c) For the purposes of determining compensation, a receiving state may require additional information from teachers receiving a license under the provisions of this compact.

(d) Nothing in this compact shall be construed to limit the power of a member state to control and maintain ownership of its information pertaining to teachers or limit the application of a member state's laws or regulations governing the ownership, use or dissemination of information pertaining to teachers.

(e) Nothing in this compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement that a member state may already be a party to, or limit the ability of a member state to participate in any future agreement or other cooperative arrangement to:

- (1) Award teaching licenses or other benefits based on additional professional credentials, including, but not limited to national board certification;
- (2) participate in the exchange of names of teachers whose license has been subject to an adverse action by a member state; or
- (3) participate in any agreement or cooperative arrangement with a non-member state.

ARTICLE V TEACHER QUALIFICATIONS AND REQUIREMENTS FOR LICENSURE UNDER THE COMPACT

(a) Except as provided for active military members or eligible military

spouses in article III(d), a teacher may only be eligible to receive a license under this compact where that teacher holds an unencumbered license in a member state.

(b) A teacher eligible to receive a license under this compact shall, unless otherwise provided for herein:

(1) Upon application to receive a license under this compact, undergo a criminal background check in the receiving state in accordance with the laws and regulations of the receiving state; and

(2) provide the receiving state with information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

ARTICLE VI DISCIPLINE AND ADVERSE ACTIONS

(a) Nothing in this compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on teachers according to the state practice laws thereof.

(b) Member states shall provide and be authorized to receive files and information regarding the investigation and discipline, if any, of teachers in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

ARTICLE VII ESTABLISHMENT OF THE INTERSTATE TEACHER MOBILITY COMPACT COMMISSION

(a) The interstate compact member states hereby create and establish a joint public agency known as the interstate teacher mobility compact commission. The commission is a joint interstate governmental agency comprised of states that have enacted the interstate teacher mobility compact. Nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.

(b) *Membership, voting, and meetings.*

(1) Each member state shall have and be limited to one delegate to the commission, who shall be given the title of commissioner.

(2) The commissioner shall be the primary administrative officer of the state licensing authority or the commissioner's designee.

(3) Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed.

(4) The member state shall fill any vacancy occurring in the commission within 90 days.

(5) Each commissioner shall be entitled to one vote about the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.

(6) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(7) The commission shall establish by rule a term of office for commissioners.

(c) The commission shall have the following powers and duties:

(1) Establish a code of ethics for the commission;

(2) establish the fiscal year of the commission;

(3) establish bylaws for the commission;

(4) maintain its financial records in accordance with the bylaws of the commission;

(5) meet and take such actions as are consistent with the provisions of this interstate compact, the bylaws and rules of the commission;

(6) promulgate uniform rules to implement and administer this interstate compact. The rules shall have the force and effect of law and shall be binding in all member states. In the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law;

(7) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;

(8) purchase and maintain insurance and bonds;

(9) borrow, accept or contract for services of personnel, including, but not limited to, employees of a member state or an associated non-governmental organization that is open to membership by all states;

(10) hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(11) lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, provided that at all times the commission shall avoid any appearance of impropriety;

(12) sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

- (13) establish a budget and make expenditures;
- (14) borrow money;
- (15) appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, rules or bylaws;
- (16) provide and receive information from, and cooperate with, law enforcement agencies;
- (17) establish and elect an executive committee;
- (18) establish and develop a charter for an executive information governance committee to advise on facilitating exchange of information, use of information, data privacy and technical support needs, and provide reports as needed;
- (19) perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the state regulation of teacher licensure; and
- (20) determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.

(d) *The executive committee of the interstate teacher mobility compact commission.*

(1) The executive committee shall have the power to act on behalf of the commission according to the terms of this interstate compact.

(2) The executive committee shall be composed of the following eight voting members:

- (A) The commission chair, vice chair and treasurer; and
- (B) five members who are elected by the commission from the current membership, including:
 - (i) Four voting members representing geographic regions in accordance with commission rules; and
 - (ii) one at large voting member in accordance with commission rules.
- (3) The commission may add or remove members of the executive committee as provided in commission rules.
- (4) The executive committee shall meet at least once annually.
- (5) The executive committee shall have the following duties and responsibilities:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to the compact legislation, fees paid by interstate compact member states such as annual dues and any compact fee charged by the member states on behalf of the commission;

(B) ensure commission administration services are appropriately provided, contractual or otherwise;

(C) prepare and recommend the budget;

(D) maintain financial records on behalf of the commission;

(E) monitor compliance of member states and provide reports to the commission; and

(F) perform other duties as provided in rules or bylaws.

(6) *Meetings of the commission.*

(A) All meetings shall be open to the public, and public notice of meetings shall be given in accordance with commission bylaws.

(B) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting if the commission or executive committee or other committees of the commission must discuss:

(i) Non-compliance of a member state with its obligations under the compact;

(ii) the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) current, threatened, or reasonably anticipated litigation;

(iv) negotiation of contracts for the purchase, lease or sale of goods, services or real estate;

(v) accusing any person of a crime or formally censuring any person;

(vi) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) disclosure of investigative records compiled for law enforcement purposes;

(ix) disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(x) matters specifically exempted from disclosure by federal or member state statute; and

(xi) others matters as set forth by commission bylaws and rules.

(C) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(D) The commission shall keep minutes of commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(7) *Financing of the commission.*

(A) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

(B) The commission may accept all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

(C) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission, in accordance with the commission rules.

(D) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(E) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to accounting procedures established under commission by-laws. All receipts and disbursements of funds of the commission shall be reviewed annually in accordance with commission bylaws, and a report of the review shall be included in and become part of the annual report of the commission.

(8) *Qualified immunity, defense and indemnification.*

(A) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

(B) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining such person's own counsel, and provided further, that the actual or alleged act,

error or omission did not result from that person's intentional or willful or wanton misconduct.

(C) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE VIII RULEMAKING

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and bylaws.

(e) (1) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

(2) For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- (A) Meet an imminent threat to public health, safety or welfare;
- (B) prevent a loss of commission or member state funds;
- (C) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- (D) protect public health and safety.

ARTICLE IX

FACILITATING INFORMATION EXCHANGE

(a) The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

(b) Nothing in this compact shall be deemed or construed to alter, limit or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit or inhibit the laws or regulations governing licensee information in the member state.

ARTICLE X

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(a) *Oversight.*

(1) The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact shall have standing as statutory law.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) All courts and all administrative agencies shall take judicial notice of the compact, the rules of the commission, and any information provided to a member state pursuant thereto in any judicial or quasi-judicial proceeding in a member state pertaining to the subject matter of this compact, or which may affect the powers, responsibilities or actions of the commission.

(4) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact or promulgated rules.

(b) *Default.*

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(A) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(B) provide remedial training and specific technical assistance regarding the default.

(c) *Termination.*

(1) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(2) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the state licensing authority and each of the member states.

(3) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(4) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(d) *Appeals.* The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(e) *Dispute resolution.*

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

(2) The commission shall promulgate a rule providing for both binding and non-binding alternative dispute resolution for disputes as appropriate.

(f) *Enforcement.*

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation,

including reasonable attorney fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE XI

EFFECTUATION, WITHDRAWAL, AND AMENDMENT

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the 10th member state.

(1) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different from the model compact statute.

(2) A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in article X.

(3) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in article VII(c) (20) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(b) If any member state is later found to be in default, is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states is fewer than 10.

(c) Any state that joins the compact after the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state, as the rules and bylaws may be amended as provided in this compact.

(d) Any member state may withdraw from this compact by enacting a statute repealing the same. A member state's withdrawal shall not take effect until six months after enactment of the repealing statute. Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE XII

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any

phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any member state or a state seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

ARTICLE XIII
CONSISTENT EFFECT AND CONFLICT WITH
OTHER STATE LAWS

(a) Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) Any laws, statutes, regulations or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All permissible agreements between the commission and the member states are binding in accordance with such agreement's terms.

Sec. 2. K.S.A. 2022 Supp. 48-3406 is hereby amended to read as follows: 48-3406. (a) For the purposes of this section:

(1) "Applicant" means an individual who is a military spouse, military servicemember or an individual who has established or intends to establish residency in this state. ~~"Applicant" with respect to law enforcement certification by the Kansas commission on peace officers' standards and training means an applicant who has met the employment requirement pursuant to K.S.A. 74-5605(a), and amendments thereto.~~

(2) "Complete application" means the licensing body has received all forms, fees, documentation, a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate and any other information required or requested by the licensing body for the purpose of evaluating the application, consistent with this section and the rules and regulations adopted by the licensing body pursuant to this section. If the licensing body has received all such forms, fees, documentation and any other information required or requested by the licensing body, an application shall be deemed to be a complete application even if the licensing body has not yet received a criminal background report from the Kansas bureau of investigation.

(3) "*Electronic credential*" or "*electronic certification, license or registration*" means an electronic method by which a person may display or transmit to another person information that verifies the status of a person's certification, licensure, registration or permit as authorized by

a licensing body and is equivalent to a paper-based certification, license, registration or permit.

(4) “Licensing body” means an official, agency, board or other entity of the state ~~which~~ *that* authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized.

~~(4)~~(5) “Military servicemember” means a current member of any branch of the United States armed services, United States military reserves or national guard of any state or a former member with an honorable discharge.

~~(5)~~(6) “Military spouse” means the spouse of a military servicemember.

~~(6)~~(7) “Person” means a natural person.

(8) “Private certification” means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation as determined by the private organization.

~~(7)~~(9) “Scope of practice” means the procedures, actions, processes and work that a person may perform under a government issued license, registration or certification.

(10) “Verification system” means an electronic method by which the authenticity and validity of electronic credentials are verified.

(b) Notwithstanding any other provision of law, any licensing body shall, upon submission of a complete application, issue a *paper-based and verified electronic* license, registration or certification to an applicant as provided by this section, so that the applicant may lawfully practice the person’s occupation. *Any licensing body may satisfy any requirement under this section to provide a paper-based license, registration, certification or permit in addition to an electronic license, registration, certification or permit by issuing such electronic credential to the applicant in a format that permits the applicant to print a paper copy of such electronic credential. Such paper copy shall be considered a valid license, registration, certification or permit for all purposes.*

(c) An applicant who holds a valid current license, registration or certification in another state, district or territory of the United States shall receive a *paper-based and verified electronic* license, registration or certification:

(1) If the applicant qualifies under the applicable Kansas licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then pursuant to applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state for the license, registration or certification within 15 days from the date a complete application was submitted if the applicant is a military servicemember or military spouse or within 45 days from the date a complete application was submitted for all other applicants; or

(2) if the applicant does not qualify under the applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state, or if the Kansas professional practice act does not have licensure, registration or certification by endorsement, reinstatement or reciprocity statutes, then the applicant shall receive a license, registration or certification as provided herein if, at the time of application, the applicant:

(A) Holds a valid current license, registration or certification in another state, district or territory of the United States with licensure, registration or certification requirements that the licensing body determines authorize a similar scope of practice as those established by the licensing body of this state, or holds a certification issued by another state for practicing the occupation but this state requires an occupational license, and the licensing body of this state determines that the certification requirements certify a similar scope of practice as the licensing requirements established by the licensing body of this state;

(B) has worked for at least one year in the occupation for which the license, certification or registration is sought;

(C) has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension or revocation of the license, certificate or registration, or that the applicant has never been censured or had other disciplinary action taken or had an application for licensure, registration or certification denied or refused to practice an occupation for which the applicant seeks licensure, registration or certification;

(D) has not been disciplined by a licensing, registering, certifying or other credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding conducted by a licensing, registering, certifying or other credentialing entity in another jurisdiction nor has surrendered their membership on any professional staff in any professional association or society or faculty for another state or jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action in a Kansas practice act;

(E) does not have a disqualifying criminal record as determined by the licensing body of this state under Kansas law;

(F) provides proof of solvency, financial standing, bonding or insurance if required by the licensing body of this state, but only to the same extent as required of any applicant with similar credentials or experience;

(G) pays any fees required by the licensing body of this state; and

(H) submits with the application a signed affidavit stating that the application information, including necessary prior employment history, is true and accurate.

Upon receiving a complete application and the provisions of subsection (c)(2) apply and have been met by the applicant, the licensing body shall issue the license, registration or certification within 15 days from the date a complete application was submitted by a military servicemember or military spouse, or within 45 days from the date a complete application was submitted by an applicant who is not a military servicemember or military spouse, to the applicant on a probationary basis, but may revoke the license, registration or certification at any time if the information provided in the application is found to be false. The probationary period shall not exceed six months. Upon completion of the probationary period, the license, certification or registration shall become a non-probationary license, certification or registration.

(d) Any applicant who has not been in the active practice of the occupation during the two years preceding the application for which the applicant seeks a license, registration or certification under subsection (c)(2) may be required to complete such additional testing, training, monitoring or continuing education as the Kansas licensing body may deem necessary to establish the applicant's present ability to practice in a manner that protects the health and safety of the public, as provided by subsection (j).

(e) Upon submission of a complete application, an applicant may receive an occupational license, registration or certification based on the applicant's work experience in another state, if the applicant:

(1) Worked in a state that does not use an occupational license, registration, certification or private certification to regulate an occupation, but this state uses an occupational license, registration or certification to regulate the occupation;

(2) worked for at least three years in the occupation during the four years immediately preceding the application; and

(3) satisfies the requirements of subsection (c)(2)(C) through (H).

(f) Upon submission of a complete application, an applicant may receive an occupational license, registration or certification under subsection (b) based on the applicant's holding of a private certification and work experience in another state, if the applicant:

(1) Holds a private certification and worked in a state that does not use an occupational license or government certification to regulate an occupation, but this state uses an occupational license or government certification to regulate the occupation;

(2) worked for at least two years in the occupation;

(3) holds a current and valid private certification in the occupation;

(4) is held in good standing by the organization that issued the private certification; and

(5) satisfies the requirements of subsection (c)(2)(C) through (H).

(g) An applicant licensed, registered or certified under this section shall be entitled to the same rights and subject to the same obligations as are provided by the licensing body for Kansas residents, except that revocation or suspension of an applicant's license, registration or certificate in the applicant's state of residence or any jurisdiction in which the applicant held a license, registration or certificate shall automatically cause the same revocation or suspension of such applicant's license, registration or certificate in Kansas. No hearing shall be granted to an applicant where such applicant's license, registration or certificate is subject to such automatic revocation or suspension, except for the purpose of establishing the fact of revocation or suspension of the applicant's license, registration or certificate by the applicant's state of residence or jurisdiction in which the applicant held a license, registration or certificate.

(h) In the event the licensing body determines that the license, registration or certificate currently held by an applicant under subsection (c)(2) or the work experience or private credential held by an applicant under subsections (e) or (f), who is a military spouse or military servicemember does not authorize a similar scope of practice as the license, registration or certification issued by the licensing body of this state, the licensing body shall issue a temporary permit for a limited period of time to allow the applicant to lawfully practice the applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that were not required in the state, district or territory of the United States in which the applicant was licensed, registered, certified or otherwise credentialed, unless the licensing body finds, based on specific grounds, that issuing a temporary permit would jeopardize the health and safety of the public.

(i) In the event the licensing body determines that the license, registration or certification currently held by an applicant under subsection (c)(2) or the work experience or private credential held by an applicant under subsections (e) or (f), who is not a military spouse or military servicemember, does not authorize a similar scope of practice as the license, registration or certification issued by the licensing body of this state, the licensing body may issue a temporary permit for a limited period of time to allow the applicant to lawfully practice the applicant's occupation while completing any specific requirements that are required in this state for licensure, registration or certification that was not required in the state, district or territory of the United States in which the applicant was licensed, registered, certified or otherwise credentialed, unless the licensing body finds, based on specific grounds, that issuing a temporary permit would jeopardize the health and safety of the public.

(j) Any testing, continuing education or training requirements administered under subsection (d), (h) or (i) shall be limited to Kansas law

that regulates the occupation and that are materially different from or additional to the law of another state, or shall be limited to any materially different or additional body of knowledge or skill required for the occupational license, registration or certification in Kansas.

(k) A licensing body may grant licensure, registration, certification or a temporary permit to any person who meets the requirements under this section but was separated from such military service under less than honorable conditions or with a general discharge under honorable conditions.

(l) Nothing in this section shall be construed to apply in conflict with or in a manner inconsistent with federal law or a multistate compact, or a rule or regulation or a reciprocal or other applicable statutory provision that would allow an applicant to receive a license. Nothing in this section shall be construed as prohibiting a licensing body from denying any application for licensure, registration or certification, or declining to grant a temporary or probationary license, if the licensing body determines that granting the application may jeopardize the health and safety of the public.

(m) Nothing in this section shall be construed to be in conflict with any applicable Kansas statute defining the scope of practice of an occupation. The scope of practice as provided by Kansas law shall apply to applicants under this section.

(n) Notwithstanding any other provision of law, during a state of emergency declared by the legislature, a licensing body may grant a temporary emergency license to practice any profession licensed, certified, registered or regulated by the licensing body to an applicant whose qualifications the licensing body determines to be sufficient to protect health and safety of the public and may prohibit any unlicensed person from practicing any profession licensed, certified, registered or regulated by the licensing body.

(o) *Not later than January 1, 2025, licensing bodies may shall provide paper-based and verified electronic credentials to persons regulated by the licensing body. For purposes of this subsection, “electronic credential” means an electronic method by which a person may display or transmit to another person information that verifies a person’s certification, licensure, registration or permit.* A licensing body may prescribe the format or requirements of the electronic credential to be used by the licensing body. Any statutory or regulatory requirement to display, post or produce a credential issued by a licensing body may be satisfied by the proffer of an electronic credential authorized by the licensing body. A licensing body may use a third-party electronic credential system that is not maintained by the licensing body.

(p) *On or before January 1, 2025, and subject to appropriations therefore, the secretary of administration shall develop and implement a uniform or singular license verification portal for the purpose of verifying or*

reporting license statuses such as credentials issued, renewed, revoked or suspended by licensing bodies or that have expired or otherwise changed in status. The secretary of administration may utilize the services or facilities of a third party for the central electronic record system. The central electronic record system shall comply with the requirements adopted by the information technology executive council pursuant to K.S.A. 75-7203, and amendments thereto. Beginning January 1, 2025, each licensing body shall be able to integrate with the uniform or singular license verification portal in the manner and format required by the secretary of administration indicating any issuance, renewal, revocation, suspension, expiration or other change in status of an electronic credential that has occurred. No charge for the establishment or maintenance of the uniform or singular license verification portal shall be imposed on any licensing body or any person with a license, registration, certification or permit issued by a licensing body. ~~Such electronic credential system~~ The centralized electronic credential data management systems shall include ~~a~~ an instantaneous verification system that is operated by the ~~licensing body or its~~ licensing body's respective secretary, or the secretary's designee, or the secretary's third-party agent on behalf of the licensing body for the purpose of instantly verifying the authenticity and validity of electronic credentials issued by the licensing body. Centralized electronic credential data management systems shall maintain an auditable record of credentials issued by each licensing body.

(q) Nothing in this section shall be construed as prohibiting or preventing a licensing body from developing, operating, maintaining or using a separate electronic credential system of the licensing body or of a third party in addition to making the reports to the central electronic record system required by subsection (p) or participating in a multistate compact or a reciprocal licensure, registration or certification process as long as the separate electronic credential system of the licensing body integrates with the uniform or singular license verification portal.

~~(p)~~(r) Each licensing body shall adopt rules and regulations necessary to implement and carry out the provisions of this section.

~~(q)~~(s) This section shall not apply to the practice of law or the regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto, or to the certification of law enforcement officers pursuant to the Kansas law enforcement training act, K.S.A. 74-5601 *et seq.*, and amendments thereto.

~~(r)~~(t) The state board of healing arts and the state board of technical professions, with respect to an applicant who is seeking a license to practice professional engineering or engage in the practice of engineering, as defined in K.S.A. 74-7003, and amendments thereto, may deny an application for licensure, registration or certification, or decline to grant a temporary or probationary license, if the board determines the applicant's

qualifications are not substantially equivalent to those established by the board. Such boards shall not otherwise be exempt from the provisions of this act.

~~(s)~~(u) This section shall apply to all licensing bodies not excluded under subsection ~~(q)~~ (s), including, but not limited to:

- (1) The abstracters' board of examiners;
- (2) the board of accountancy;
- (3) the board of adult care home administrators;
- (4) the secretary for aging and disability services, with respect to K.S.A. 65-5901 et seq. and ~~K.S.A.~~ 65-6503 et seq., and amendments thereto;
- (5) the Kansas board of barbering;
- (6) the behavioral sciences regulatory board;
- (7) the Kansas state board of cosmetology;
- (8) the Kansas dental board;
- (9) the state board of education;
- (10) the Kansas board of examiners in fitting and dispensing of hearing instruments;
- (11) the board of examiners in optometry;
- (12) the state board of healing arts, as provided by subsection ~~(r)~~ (t);
- (13) the secretary of health and environment, with respect to K.S.A. 82a-1201 et seq., and amendments thereto;
- (14) the commissioner of insurance, with respect to K.S.A. 40-241 and 40-4901 et seq., and amendments thereto;
- (15) the state board of mortuary arts;
- (16) the board of nursing;
- (17) the state board of pharmacy;
- (18) the Kansas real estate commission;
- (19) the real estate appraisal board;
- (20) the state board of technical professions, as provided by subsection ~~(r)~~ (t); and
- (21) the state board of veterinary examiners.

~~(t)~~(v) All proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

~~(u)~~(w) Commencing on July 1, 2021, and each year thereafter, each licensing body listed in subsection ~~(s)~~(1) (u)(1) through (21) shall provide a report for the period of July 1 through June 30 to the director of legislative research by August 31 of each year, providing information requested by the director of legislative research to fulfill the requirements of this subsection. The director of legislative research shall develop the report format, prepare an analysis of the reports and submit and present the analysis to the office of the governor, the committee on commerce, labor

and economic development of the house of representatives, the committee on commerce of the senate, the committee on appropriations of the house of representatives and the committee on ways and means of the senate by January 15 of the succeeding year. The director's report may provide any analysis the director deems useful and shall provide the following items, detailed by applicant type, including military servicemember, military spouse and non-military individual:

- (1) The number of applications received under the provisions of this section;
- (2) the number of applications granted under this section;
- (3) the number of applications denied under this section;
- (4) the average time between receipt of the application and completion of the application;
- (5) the average time between receipt of a complete application and issuance of a license, certification or registration; and
- (6) identification of applications submitted under this section where the issuance of credentials or another determination by the licensing body was not made within the time limitations pursuant to this section and the reasons for the failure to meet such time limitations.

All information shall be provided by the licensing body to the director of legislative research in a manner that maintains the confidentiality of all applicants and in aggregate form that does not permit identification of individual applicants.

Sec. 3. K.S.A. 2022 Supp. 48-3406 is hereby repealed.

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

Approved April 20, 2023.

CHAPTER 62

House Substitute for SENATE BILL No. 116

AN ACT concerning the personal and family protection act; removing state agency fees for licenses to carry concealed handguns; amending K.S.A. 2022 Supp. 75-7c05 and 75-7c08 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 75-7c05 is hereby amended to read as follows: 75-7c05. (a) The application for a license pursuant to this act shall be completed, under oath, on a form prescribed by the attorney general and shall only include:

(1) (A) Subject to the provisions of subsection (a)(1)(B), the name, address, social security number, Kansas driver's license number or Kansas nondriver's license identification number, place and date of birth, a photocopy of the applicant's driver's license or nondriver's identification card and a photocopy of the applicant's certificate of training course completion; (B) in the case of an applicant who presents proof that such person is on active duty with any branch of the armed forces of the United States, or is the dependent of such a person, and who does not possess a Kansas driver's license or Kansas nondriver's license identification, the number of such license or identification shall not be required;

(2) a statement that the applicant is in compliance with criteria contained within K.S.A. 75-7c04, and amendments thereto;

(3) a statement that the applicant has been furnished a copy of this act and is knowledgeable of its provisions;

(4) a conspicuous warning that the application is executed under oath and that a false answer to any question, or the submission of any false document by the applicant, subjects the applicant to criminal prosecution under K.S.A. 2022 Supp. 21-5903, and amendments thereto; and

(5) a statement that the applicant desires a concealed handgun license as a means of lawful self-defense.

(b) Except as otherwise provided in subsection (i), the applicant shall submit to the sheriff of the county where the applicant resides, during any normal business hours:

(1) A completed application described in subsection (a);

(2) ~~a nonrefundable license fee of \$132.50, if the applicant has not previously been issued a statewide license or if the applicant's license has permanently expired, which fee shall be in the form of two cashier's checks, personal checks or money orders of an amount of \$32.50 payable to the sheriff of the county where the applicant resides and \$100 payable to the attorney general for the purpose of covering the cost of taking fingerprints pursuant to subsection (c);~~

(3) if applicable, a photocopy of the proof of training required by K.S.A. 75-7c04(b)(1), and amendments thereto; and

(4) a full frontal view photograph of the applicant taken within the preceding 30 days.

(c) (1) Except as otherwise provided in subsection (i), the sheriff, upon receipt of the items listed in subsection (b), shall provide for the full set of fingerprints of the applicant to be taken and forwarded to the attorney general for purposes of a criminal history records check as provided by subsection (d). In addition, the sheriff shall forward *the application* to the attorney general ~~the application and the portion of the original license fee which is payable to the attorney general. The cost of taking such fingerprints shall be included in the portion of the fee retained by the sheriff.~~ Notwithstanding ~~anything~~ *any provision* in this section to the contrary, an applicant shall not be required to submit fingerprints for a renewal application under K.S.A. 75-7c08, and amendments thereto.

(2) The sheriff of the applicant's county of residence or the chief law enforcement officer of any law enforcement agency, at the sheriff's or chief law enforcement officer's discretion, may participate in the process by submitting a voluntary report to the attorney general containing readily discoverable information, corroborated through public records, which, when combined with another enumerated factor, establishes that the applicant poses a significantly greater threat to law enforcement or the public at large than the average citizen. Any such voluntary reporting shall be made within 45 days after the date the sheriff receives the application. Any sheriff or chief law enforcement officer submitting a voluntary report shall not incur any civil or criminal liability as the result of the good faith submission of such report.

(3) All funds retained by the sheriff pursuant to the provisions of this section shall be credited to a special fund of the sheriff's office which shall be used solely for the purpose of administering this act.

(d) Each applicant shall be subject to a state and national criminal history records check which conforms to applicable federal standards, including an inquiry of the national instant criminal background check system for the purpose of verifying the identity of the applicant and whether the applicant has been convicted of any crime or has been the subject of any restraining order or any mental health related finding that would disqualify the applicant from holding a license under this act. The attorney general is authorized to use the information obtained from the state or national criminal history record check to determine the applicant's eligibility for such license.

(e) Within 90 days after the date of receipt of the items listed in subsection (b), the attorney general shall:

(1) (A) Issue the license and certify the issuance to the department of revenue; and

(B) if it is impractical for the division of vehicles of the department of revenue to issue physical cards consistent with the requirements of this act and the attorney general has determined that the conditions for such impracticality have existed for at least 30 days, the attorney general shall issue an authorization document in accordance with K.S.A. 75-7c03(d), and amendments thereto; or

(2) deny the application based solely on: (A) The report submitted by the sheriff or other chief law enforcement officer under subsection (c) (2) for good cause shown therein; or (B) the ground that the applicant is disqualified under the criteria listed in K.S.A. 75-7c04, and amendments thereto. If the attorney general denies the application, the attorney general shall notify the applicant in writing, stating the ground for denial and informing the applicant the opportunity for a hearing pursuant to the Kansas administrative procedure act.

(f) ~~Each~~ *No person who is issued a license or has such license renewed shall be required to pay to the department of revenue a fee for the cost of the license which shall be in amounts equal to the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments thereto, for replacement of a driver's license or renewal except as otherwise provided in subsection (b) for the purpose of covering the cost of taking fingerprints.*

(g) (1) A person who is a retired law enforcement officer, as defined in K.S.A. 2022 Supp. 21-5111, and amendments thereto, shall be: (A) ~~Required to pay an original license fee as provided in subsection (b)(2), to be forwarded by the sheriff to the attorney general;~~ (B) Exempt from the required completion of a handgun safety and training course if such person was certified by the Kansas commission on peace officer's standards and training, or similar body from another jurisdiction, not more than eight years prior to submission of the application; (C) ~~required to pay the license renewal fee;~~ (D) ~~required to pay to the department of revenue the fees required by subsection (f);~~ and (E) (B) required to comply with the criminal history records check requirement of this section.

(2) Proof of retirement as a law enforcement officer shall be required and provided to the attorney general in the form of a letter from the agency head, or their designee, of the officer's retiring agency that attests to the officer having retired in good standing from that agency as a law enforcement officer for reasons other than mental instability and that the officer has a nonforfeitable right to benefits under a retirement plan of the agency.

(h) A person who is a corrections officer, a parole officer or a corrections officer employed by the federal bureau of prisons, as defined by K.S.A. 75-5202, and amendments thereto, shall be: (1) ~~Required to pay an original license fee as provided in subsection (b)(2);~~ (2) Exempt from the required completion of a handgun safety and training course if such

person was issued a certificate of firearms training by the department of corrections or the federal bureau of prisons or similar body not more than one year prior to submission of the application; ~~(3) required to pay the license renewal fee; (4) required to pay to the department of revenue the fees required by subsection (f); and (5)~~ (2) required to comply with the criminal history records check requirement of this section.

(i) A person who presents proof that such person is on active duty with any branch of the armed forces of the United States and is stationed at a United States military installation located outside this state, may submit by mail an application described in subsection (a) and the other materials required by subsection (b) to the sheriff of the county where the applicant resides. Provided the applicant is fingerprinted at a United States military installation, the applicant may submit a full set of fingerprints of such applicant along with the application. Upon receipt of such items, the sheriff shall forward to the attorney general the application ~~and the portion of the original license fee which is payable to the attorney general.~~

Sec. 2. K.S.A. 2022 Supp. 75-7c08 is hereby amended to read as follows: 75-7c08. (a) Not less than 90 days prior to the expiration date of the license, the attorney general shall mail to the licensee a written notice of the expiration and a renewal form prescribed by the attorney general. The licensee shall renew the license on or before the expiration date by filing with the attorney general the renewal form, a notarized affidavit, either in person or by certified mail, stating that the licensee remains qualified pursuant to the criteria specified in K.S.A. 75-7c04, and amendments thereto, *and* a full frontal view photograph of the applicant taken within the preceding 30 days ~~and a nonrefundable license renewal fee of \$25 payable to the attorney general.~~ The attorney general shall complete a name-based background check, including a search of the national instant criminal background check system database. ~~A licensee who fails to file a renewal application on or before the expiration date of the license must pay an additional late fee of \$15. A renewal application is considered filed on the date the renewal form, *and* affidavit, ~~and required fees are delivered in person to the attorney general's office or on the date a certified mailing to the attorney general's office containing these items is postmarked.~~~~

(b) Upon receipt of a renewal application as specified in subsection (a), a background check in accordance with K.S.A. 75-7c05(d), and amendments thereto, shall be completed. Fingerprints shall not be required for renewal applications. If the licensee is not disqualified as provided by this act, the license shall be renewed upon receipt by the attorney general of the items listed in subsection (a) and the completion of the background check. If the licensee holds a valid provisional license at the time the renewal application is submitted, then the attorney general

shall issue a standard license to the licensee if the licensee is not disqualified as provided by this act.

(c) No license shall be renewed if the renewal application is filed six months or more after the expiration date of the license, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure but an application for licensure ~~and fees~~ pursuant to K.S.A. 75-7c05, and amendments thereto, shall be submitted, and a background investigation including the submission of fingerprints, shall be conducted pursuant to the provisions of that section.

Sec. 3. K.S.A. 2022 Supp. 75-7c05 and 75-7c08 are hereby repealed.

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

Approved April 20, 2023.

CHAPTER 63

SENATE BILL No. 189

AN ACT concerning law enforcement; relating to applicants for a law enforcement officer position; authorizing state and local law enforcement agencies to receive certain files and information about the applicant from agencies that received an application from the applicant for a law enforcement position or conducted an employment background investigation; amending K.S.A. 75-4379 and repealing the existing section.

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

Section 1. K.S.A. 75-4379 is hereby amended to read as follows: 75-4379. (a) (1) A hiring agency shall require each applicant interviewed by such agency for a law enforcement officer position who has *submitted an application for a law enforcement officer position with or* been employed in a law enforcement position by another state or local law enforcement agency or governmental agency to execute a written waiver that:

~~(1)(A)~~ Explicitly authorizes each state or local law enforcement agency or governmental agency that has employed the applicant *in a law enforcement position, received an application from the applicant for a law enforcement position or conducted an employment background investigation on the applicant* to disclose the applicant's files to the hiring agency; and

~~(2)(B)~~ releases the hiring agency and each state or local law enforcement agency or governmental agency ~~that employed the applicant described in subparagraph (A)~~ from any liability related to the use and disclosure of the applicant's files.

(2) An applicant who refuses to execute the written waiver shall not be considered for employment by the hiring agency.

(3) The hiring agency shall include the written waiver with each request for information submitted to a state or local law enforcement agency or governmental agency ~~that has employed the applicant~~.

(b) Except as provided in subsection (c), a state or local law enforcement agency or governmental agency that receives a written waiver described in subsection (a) shall disclose the applicant's files to the hiring agency not more than 21 days after such receipt. Such law enforcement agency or governmental agency may choose to disclose the applicant's files by either:

(1) Providing copies to the hiring agency; or

(2) allowing the hiring agency to review the files at the law enforcement agency's office or governmental agency's office.

(c) (1) A state or local law enforcement agency or governmental agency is not required to disclose the applicant's files pursuant to subsection (b) if such agency is prohibited from providing the files pursuant to a binding nondisclosure agreement to which such agency is a party, and such agreement was executed before July 1, 2018.

(2) A state or local law enforcement agency or governmental agency is required to disclose the applicant's files pursuant to subsection (b) if such files are subject to a binding nondisclosure agreement to which such agency is a party, and such agreement was executed on or after July 1, 2018, but the disclosure shall be limited to files necessary to determine the qualifications and fitness of the applicant for performance of duties in a law enforcement officer position.

(3) A state or local law enforcement agency or governmental agency may redact personally identifiable information of persons other than the applicant in files disclosed to the hiring agency.

(d) A state or local law enforcement agency or governmental agency shall not be liable for complying with the provisions of this section in good faith or participating in an official oral interview with an investigator regarding the applicant.

(e) Except as provided in subsection (f), or except as necessary for such agency's internal hiring processes, files obtained pursuant to this section shall not be disclosed by the hiring agency.

(f) Files obtained pursuant to this section shall constitute, for the purposes of the open records act, a record of the state or local law enforcement agency or governmental agency that made, maintained or kept such files. Such files shall not be subject to a request for inspection and copying under the open records act directed toward the hiring agency obtaining the files. The official custodian of such files, for the purposes of the open records act, shall be the official custodian of the records of such state or local law enforcement agency or governmental agency. Except in a civil action involving negligent hiring, such files shall not be subject to discovery, subpoena or other process directed toward the hiring agency obtaining the files.

(g) As used in this section:

(1) (A) "Files" means:

(i) All performance reviews or other files related to job performance, commendations, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, internal investigation files, suspensions, investigation-related leave, documents concerning termination or other departure from employment, all complaints and all early warning information; *and*

(ii) *regardless of whether the applicant was ultimately hired, the employment application, background investigations, polygraph or voice stress analysis examination results and law enforcement-related psychological evaluation reports connected to the application process.*

(B) "Files" ~~shall~~ *does* not include nonperformance documents or data, including, but not limited to, medical files, *psychological examination reports not directly related to the applicant's suitability for law enforcement*

employment or certification, schedules, pay and benefit information or similar administrative data or information.

(2) “Early warning information” means information from a ~~database~~ *database* management tool designed to identify officers who may be exhibiting precursors of problems on the job that can result in providing those officers with counseling or training to divert them away from conduct that may become a disciplinary matter.

(3) “Governmental agency” means the state or subdivision of the state with oversight of the state or local law enforcement agency.

(4) “Hiring agency” means a state or local law enforcement agency processing an application for employment, regardless of whether the applicant is ultimately hired.

(5) “State or local law enforcement agency” means any public agency employing a law enforcement officer as defined in K.S.A. 74-5602, and amendments thereto.

Sec. 2. K.S.A. 75-4379 is hereby repealed.

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

Approved April 20, 2023.

CHAPTER 64

SENATE BILL No. 123

AN ACT concerning postsecondary education; enacting the Kansas adult learner grant act; establishing a grant program for adult learners to pursue certain fields of study; providing for workforce retention income tax credits; creating the Kansas adult learner grant program fund; enacting the career technical education credential and transition incentive for employment success act; requiring school districts to pay for the cost of assessments for students to obtain an approved career technical education credential; relating to residency determination of certain students; deeming veterans and dependents or spouses of such veterans who were stationed in the state for at least 11 months as residents for purposes of tuition and fees; expanding the eligible fields of study under the Kansas promise scholarship act; establishing a maximum scholarship amount for certain private postsecondary educational institutions; amending K.S.A. 2022 Supp. 48-3601, 74-32,272, 74-32,273, 74-32,274 and 74-32,275 and repealing the existing sections.

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

New Section 1. (a) Sections 1 through 9, and amendments thereto, shall be known and may be cited as the Kansas adult learner grant act.

(b) As used in the Kansas adult learner grant act:

(1) “Adult learner grant eligible program” means any baccalaureate degree program offered by an eligible postsecondary educational institution that is identified as an “adult learner grant eligible program” by the state board of regents pursuant to section 2, and amendments thereto, or designated as an “adult learner grant eligible program” by an eligible postsecondary educational institution pursuant to section 3, and amendments thereto.

(2) “Eligible postsecondary educational institution” means:

(A) A state educational institution under the control and supervision of the board of regents;

(B) a municipal university;

(C) any not-for-profit institution of postsecondary education with its main campus or principal place of operation in Kansas that offers an adult learner grant eligible program, is operated independently and not controlled or administered by any state agency or subdivision of the state, maintains open enrollment and is accredited by a nationally recognized accrediting agency for higher education in the United States; or

(D) a not-for-profit independent institution of higher education which is accredited by an institutional accrediting agency recognized by the United States department of education, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment, offers online education and offers exclusively competency-based education programs.

(3) “Part-time student” means a student who is enrolled for six credit hours or more in a semester, or the equivalent, and is not enrolled as a full-time student.

New Sec. 2. (a) There is hereby established the Kansas adult learner grant program. The state board of regents shall administer the program.

(b) On or before March 1, 2024, the state board of regents shall adopt rules and regulations to implement and administer the Kansas adult learner grant program. Such rules and regulations shall establish:

- (1) Grant application and renewal forms and deadlines;
- (2) appeal procedures for denial or revocation of a Kansas adult learner grant;
- (3) the terms, conditions and requirements for the Kansas adult learner grant consistent with the provisions of this act; and
- (4) procedures for requesting and approving medical, military and personal absences from an eligible postsecondary educational institution while a Kansas adult learner grant recipient is receiving such grant.

(c) The state board of regents shall:

(1) Identify the adult learner grant eligible programs offered by each eligible postsecondary educational institution that are:

- (A) In any of the following fields of study:
 - (i) Information technology and security;
 - (ii) healthcare and nursing;
 - (iii) science, engineering, aerospace and advanced manufacturing;
 - (iv) education, early childhood education and development;
 - (v) business, accounting and data analytics; or
 - (B) designated by the eligible postsecondary educational institution pursuant to section 3, and amendments thereto;
- (2) work with community partners, such as community foundations, school districts, postsecondary educational institutions, Kansas business and industry and Kansas economic development organizations to publicize Kansas adult learner grants, including, but not limited to, publicizing eligible postsecondary educational institutions, approved grant-eligible educational programs and application and renewal procedures and deadlines;
- (3) disburse funds to each eligible postsecondary educational institution for the purpose of awarding Kansas adult learner grants;
- (4) request information from eligible postsecondary educational institutions necessary for the administration of this act; and
- (5) beginning January 1, 2025, annually evaluate the Kansas adult learner grant program and prepare and submit a report to the senate standing committee on education and committee on commerce and the house of representatives standing committee on education and committee on commerce, labor and economic development.

New Sec. 3. (a) Subject to subsection (b), an eligible postsecondary educational institution may designate one additional adult learner grant eligible program if the additional program is a baccalaureate degree program that corresponds to a high wage, high demand or critical need occupation.

(b) To designate an additional adult learner grant eligible program, such institution shall have and maintain an existing adult learner grant eligible program in any of the following fields of study:

- (1) Information technology and security;
- (2) healthcare and nursing;
- (3) science, engineering, aerospace and advanced manufacturing;
- (4) education and early childhood education and development; or
- (5) business, accounting and data analytics.

(c) An eligible postsecondary educational institution that designates an additional adult learner grant eligible program pursuant to subsection (a) shall maintain the adult learner grant eligible program designation of such program for at least four consecutive years. After maintaining such program for at least four years, the institution may designate a new adult learner grant eligible program that corresponds to a high wage, high demand or critical need occupation to replace the existing designated adult learner grant eligible program. Any newly designated program shall be subject to the requirements of this section.

New Sec. 4. (a) Subject to appropriations, the amount of a Kansas adult learner grant for a student shall be \$3,000 per semester, except that such amount shall be prorated if the student is not enrolled full-time. The prorated amount shall be calculated on a sliding scale, in which full-time enrollment is 12 credit hours per semester and shall qualify for a 100% grant and 6 credit hours of enrollment per semester shall qualify for a 50% grant.

(b) Students receiving an adult learner grant are eligible to continue to receive such grant for up to 48 months after the date that the grant was first awarded or upon graduation from the program, whichever comes first.

(c) Except as otherwise provided in this subsection, Kansas adult learner grants shall only be awarded to an eligible student whose family household income equals \$100,000 or less for a family of two, \$150,000 or less for a family of three and, for household sizes above three, a household income that is equal to or less than the family of three amount plus \$4,800 for each additional family member.

(d) Moneys awarded as a grant under this act shall only be expended for tuition, required fees and the cost of books and required materials.

(e) For fiscal year 2024 and each fiscal year thereafter, the appropriation made for the Kansas adult learner grant program shall not exceed \$1,000,000 for each fiscal year.

New Sec. 5. (a) To be eligible for a Kansas adult learner grant, a student shall:

- (1) Be a Kansas resident;
- (2) be 25 years of age or older at the time the student's first course that is funded by a grant begins;

(3) complete the required grant application on such forms and in such manner as established by the state board of regents;

(4) complete the free application for federal student aid for the academic year in which the student applies to receive a Kansas adult learner grant; and

(5) enroll as a full-time student or part-time student at an eligible postsecondary educational institution in an adult learner grant eligible program.

(b) To continue to receive a Kansas adult learner grant, a student shall:

(1) Maintain satisfactory academic progress, including a grade point average of 2.0 or higher, or the equivalent thereof, toward completion of the adult learner grant eligible program;

(2) complete a grant renewal application on such forms and in such manner as established by the state board of regents; and

(3) complete the free application for federal student aid for the academic year for which the student applies to renew the grant.

New Sec. 6. (a) As a condition to receiving a grant under this act, an eligible student shall enter into an agreement with the eligible postsecondary educational institution that awarded such grant. Such eligible postsecondary educational institution shall counsel each eligible student on the requirements and conditions of the agreement. Such agreement shall require any student who receives a grant award to:

(1) Enroll as a full-time or part-time student at the eligible postsecondary educational institution that made the grant award and engage in and complete the adult learner grant eligible program;

(2) within six months after graduation from the adult learner grant eligible program:

(A) Reside and commence work in the state of Kansas for at least two consecutive years following completion of such program. A scholarship recipient may use a W-2 wage and tax statement showing Kansas withholding or estimated income tax to the state of Kansas as proof of work in Kansas; or

(B) enroll as a full-time or part-time student in any public or private postsecondary educational institution with its primary location in Kansas and upon graduation or failure to re-enroll, reside in and commence work in Kansas for at least two consecutive years following the completion of such program;

(3) maintain records and make reports to the state board of regents on such forms and in such manner as required by the state board of regents to document the satisfaction of the requirements of this act; and

(4) upon failure to satisfy the requirements of an agreement entered into pursuant to this section, repay the amount of the grant award the student received under the program as provided in subsection (b) to the state board of regents.

(b) (1) Except as provided in subsection (c), if any student who receives a grant award fails to satisfy the requirements of the agreement entered into pursuant to this section, such student shall pay an amount equal to the total amount of money received by such student pursuant to such agreement plus accrued interest at a rate equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such student's first course funded by a grant award began. Interest shall begin accruing on the date the student is determined to be out of compliance with the agreement. Monthly installment payments of such amounts may be made in accordance with rules and regulations of the state board of regents. Such installment payments shall begin six months after the date of the action or circumstances that cause such student to fail to satisfy the requirements of the agreement, as determined by the state board of regents upon the circumstances of each individual case. All moneys received pursuant to this subsection shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas adult learner grant program fund.

(2) The state board of regents shall be the sole entity responsible for collecting or recouping any grant moneys required to be repaid by a student who fails to satisfy the requirements of an agreement entered into pursuant to this section.

(3) The state board of regents is authorized to turn any repayment account arising under this act to a designated loan servicer or collection agency to collect on the state board's behalf. The state's involvement shall only be to receive payments from the loan servicer or collection agency at the interest rate prescribed under this subsection.

(4) Eligible postsecondary educational institutions and each state agency are authorized to provide academic, employment, residency and contact information regarding students who received a grant award to the state board of regents for the purposes of:

(A) Determining whether or not a student satisfied the requirements of this act and the agreement entered into pursuant to this section; and

(B) aiding in the collection or recoupment of any funds required to be repaid pursuant to this section.

(5) Eligible postsecondary educational institutions shall:

(A) Provide annually to the state board of regents the last known contact information of each student who received a grant award until the requirements of the program and the agreement are complete; and

(B) notify the state board of regents when a student who received a grant award completes the program of study for which the student received the grant or has exhausted the benefits available under this act.

(6) Eligible postsecondary educational institutions shall not be considered a contractor of the state nor shall such institutions be required to participate in tracking, collecting or recouping any moneys required to be repaid by a student who fails to satisfy the requirements of an agreement entered into pursuant to this section.

(c) Any requirement of an agreement entered into pursuant to this section may be postponed for good cause in accordance with rules and regulations of the state board of regents.

(d) A scholarship recipient satisfies the requirements of the adult learner grant program if such recipient:

(1) Completes the requirements of the agreement entered into pursuant to this section;

(2) commences service as a military servicemember after receiving a grant award;

(3) fails to satisfy the requirements after making the best possible effort to do so as determined by the state board of regents;

(4) is unable to obtain employment or continue in employment after making the best possible effort to do so; or

(5) is unable to satisfy the requirements due to disability or death of the grant recipient.

New Sec. 7. (a) Notwithstanding the grant limitation in section 4, and amendments thereto, an individual who has received a Kansas adult learner grant shall qualify for a Kansas workforce retention incentive income tax credit against the individual's tax liability under the Kansas income tax act of \$1,500 if they demonstrate satisfactorily to the secretary of revenue that they:

(1) Successfully completed their adult learner grant eligible program with the awarding of their degree; and

(2) (A) Currently reside in Kansas, have resided in Kansas for at least two consecutive years following completion of their program and are currently employed in the state of Kansas; or

(B) have commenced service as a military servicemember.

(b) To claim the credit, the individual shall submit such information and documentation in the form and manner required by the secretary of revenue.

(c) The individual may claim the income tax credit not later than the 5th taxable year after the taxable year in which the individual successfully completed the adult learner grant eligible program with an award of their degree. Any amount of the credit that exceeds the individual's tax liability shall be carried forward once to the next succeeding taxable year as a credit against the individual's income tax liability for such year. Any amount of the credit remaining after being carried forward once shall be forfeited.

(d) On or before March 1, 2024, the secretary of revenue shall adopt rules and regulations to implement and administer the income tax credit established by this section. Such rules and regulations shall include criteria to determine whether an individual who has received a Kansas adult learner grant has fulfilled the requirements to qualify for a tax credit pursuant to this section.

New Sec. 8. There is hereby created in the state treasury the Kansas adult learner grant program fund, which shall be administered by the state board of regents. All expenditures from the Kansas adult learner grant program fund shall be for Kansas adult learner grants awarded pursuant to the Kansas adult learner grant program. All expenditures from the Kansas adult learner grant program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer of the state board of regents or the designee of the executive officer. All moneys received by such board for the Kansas adult learner grant program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas adult learner grant program fund.

New Sec. 9. The provisions of sections 1 through 8, and amendments thereto, shall expire on July 1, 2028.

New Sec. 10. (a) This section shall be known and may be cited as the career technical education credential and transition incentive for employment success act.

(b) Each school district that offers career technical education for students enrolled in any of the grades nine through 12 shall, upon request by any such student, pay any fees charged for any assessment or other examination that is required for such student to obtain an approved industry-sought career technical education credential.

(c) (1) On or before July 1, 2023, and each July 1 thereafter, the state board of education and state board of regents shall jointly conduct a survey of school districts and colleges on which career technical education credentials each school district offers that satisfies the definition of “industry-sought credential” under subsection (d).

(2) On or before July 31, 2023, and each July 31 thereafter, the state board of education and state board of regents, after consultation with the secretary of labor, the secretary of commerce and representatives of industries that recognize career technical education credentials, shall jointly approve a list of industry-sought credentials.

(d) As used in this section:

(1) “College” means any community college, technical college or the Washburn institute of technology; and

(2) “industry-sought credential” means a career technical education credential that is:

(A) Repeatedly referenced in job postings; and

(B) frequently referred to by employers in communications with school districts as a career technical education credential that is in demand.

Sec. 11. K.S.A. 2022 Supp. 48-3601 is hereby amended to read as follows: 48-3601. (a) A current member of the armed forces of the United States or the member’s spouse or dependent child who is enrolled or has been accepted for admission at a postsecondary educational institution as a postsecondary student shall be deemed to be a resident of the state for the purpose of tuition and fees for attendance at such postsecondary educational institution.

(b) A person is entitled to pay tuition and fees at an institution of higher education at the rates provided for Kansas residents without regard to the length of time the person has resided in the state if the person:

(1) (A) Files a letter of intent to establish residence in the state with the postsecondary educational institution at which the person intends to register;

(B) lives in the state while attending the postsecondary educational institution; and

(C) is eligible for benefits under the federal post-9/11 veterans educational assistance act of 2008, 38 U.S.C. § 3301 et seq., or any other federal law authorizing educational benefits for veterans;

(2) (A) is a veteran;

(B) was ~~permanently~~ stationed in Kansas *for at least 11 months* during service in the armed forces or had established residency in Kansas prior to service in the armed forces; and

(C) lives in Kansas at the time of enrollment; or

(3) (A) is the spouse or dependent of a veteran who was ~~permanently~~ stationed in Kansas *for at least 11 months* during such veteran’s service in the armed forces or had established residency in Kansas prior to service in the armed forces; and

(B) lives in Kansas at the time of enrollment.

(c) As used in this section:

(1) “Armed forces” means the army, navy, marine corps, air force, coast guard, Kansas army or air national guard or any branch of the military reserves of the United States;

(2) “postsecondary educational institution” means the same as provided in K.S.A. 74-3201b, and amendments thereto; *and*

(3) “~~school year 2015-2016~~” means July 1, 2015 through June 30, 2016; ~~and~~

(4)—“veteran” means a person who has been separated from the armed forces and was honorably discharged or received a general discharge under honorable conditions.

(d)—~~Any person enrolled in a postsecondary educational institution at any time during school year 2015-2016 who would have been entitled to tuition and fee rates for a Kansas resident pursuant to subsection (b)(2) or (3) had such subsection been in effect, but who paid more than such tuition and fee rates for school year 2015-2016 shall be entitled to reimbursement of the difference between any tuition and fee rates such person paid for school year 2015-2016 and the tuition and fee rate such person would have paid as a Kansas resident if such subsection had been in effect.~~

(e) This section shall be a part of and supplemental to chapter 48 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 12. K.S.A. 2022 Supp. 74-32,272 is hereby amended to read as follows: 74-32,272. (a) There is hereby established the Kansas promise scholarship program. The state board of regents shall implement and administer the program.

(b) On or before March 1, 2023, the state board of regents shall adopt rules and regulations to implement and administer the Kansas promise scholarship program. Such rules and regulations shall establish:

(1) A scholarship application process, including, but not limited to, accepting scholarship applications throughout the academic year and processing such applications in the order such applications were received;

(2) appeal procedures for denial or revocation of a Kansas promise scholarship;

(3) guidelines to ensure as much as is practicable that, if a student who received a Kansas promise scholarship graduates from a promise eligible program and subsequently enrolls in a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or municipal university, any courses taken by such student shall be transferred to the state educational institution or municipal university and qualify toward the student’s baccalaureate degree;

(4) the terms, conditions and requirements that shall be incorporated into each Kansas promise scholarship agreement, which shall not be more stringent than the requirements for Kansas promise scholarship agreements provided in this act;

(5) procedures for requesting and approving medical, military and personal absences from an eligible postsecondary educational institution while receiving a Kansas promise scholarship;

(6) criteria for determining whether a student who received a Kansas promise scholarship fulfilled the residency, employment and repayment requirements included in a Kansas promise scholarship agreement as provided in K.S.A. 2022 Supp. 74-32,276, and amendments thereto;

(7) criteria for determining when a student who received a Kansas promise scholarship may be released from the requirements of a Kansas promise scholarship, if there are special circumstances that caused such student to be unable to complete such requirements; and

(8) that no eligible postsecondary educational institution may:

(A) Limit scholarship awards to certain promise eligible programs at such institution; or

(B) award less than the full Kansas promise scholarship amount for which a student qualifies as long as funds are available in the Kansas promise scholarship program fund.

(c) The state board of regents shall:

(1) Identify the promise eligible programs offered by each eligible postsecondary educational institution that are:

(A) Within a field of study designated by the eligible postsecondary educational institution pursuant to K.S.A. 2022 Supp. 74-32,273, and amendments thereto; and

(B) in any of the following fields of study:

(i) Information technology and security;

(ii) mental and physical healthcare;

(iii) advanced manufacturing and building trades; or

(iv) early childhood education and development, *elementary education and secondary education*;

(2) work with community partners, such as community foundations, school districts, postsecondary educational institutions, Kansas business and industry and Kansas economic development organizations to publicize Kansas promise scholarships, including, but not limited to, publicizing eligible postsecondary educational institutions, approved scholarship-eligible educational programs, application procedures and application deadlines;

(3) disburse funds to each eligible postsecondary educational institution for the purpose of awarding Kansas promise scholarships;

(4) request information from eligible postsecondary educational institutions and any state agency necessary for the administration of this act;

(5) accept electronic signatures as sufficient and valid on all forms and agreements required by the Kansas promise scholarship program and any rules and regulations adopted thereunder;

(6) enforce Kansas promise scholarship agreements;

(7) collect any moneys repaid by students pursuant to K.S.A. 2022 Supp. 74-32,276, and amendments thereto;

(8) determine whether students who received a Kansas promise scholarship fulfill the residency, employment and repayment requirements provided in K.S.A. 2022 Supp. 74-32,276, and amendments thereto; and

(9) ~~beginning in January 2022,~~ annually evaluate the Kansas promise scholarship program and prepare and submit a report to the senate stand-

ing committee on education and the house of representatives standing committee on education. Such report shall include, but not be limited to, the total program cost for each promise eligible program at each eligible postsecondary educational institution, the amount of scholarship moneys awarded that went to each promise eligible program, the number of credit hours paid for with scholarship moneys, the amount of scholarship moneys expected to be awarded to each institution for each semester, the number of scholarships awarded, the total amount of scholarship moneys awarded, the amount of scholarship moneys provided for tuition, fees, books and supplies, measures postsecondary educational institutions have taken in working with private business and industry in the state to determine appropriate fields of study and a review of the employment of scholarship recipients who have completed the Kansas promise scholarship program, including, but not limited to, employment fields and geographic location of such employment.

(d) (1) The state board of regents may designate an associate degree transfer program as an eligible program only if such program is included in:

(A) An established 2+2 agreement with a Kansas four-year postsecondary educational institution; or

(B) an articulation agreement with a Kansas four-year postsecondary educational institution and is part of an established degree pathway that allows a student to transfer at least 60 credit hours from the eligible postsecondary educational institution to a four-year postsecondary educational institution for the completion of an additional 60 credit hours toward a bachelor's degree.

(2) The provisions of this subsection shall be construed and applied retroactively to the enactment of the Kansas promise scholarship program on July 1, 2021.

(e) (1) The state board of regents may remove a promise eligible program from the list of approved promise eligible programs only in accordance with this subsection. If the state board of regents proposes to remove a promise eligible program from such list, the state board of regents shall notify all eligible postsecondary educational institutions of the proposal to remove such program by May 1 of the calendar year that precedes the calendar year in which such program would officially be removed from such list. Within 30 calendar days of receipt, each eligible postsecondary educational institution may appeal such proposed removal to the state board of regents. Following such appeal period, within 45 calendar days, the state board of regents shall consider any such appeal and issue a final decision upon whether the program shall be removed. If the state board of regents issues a final decision to remove such program, the program shall be removed from the list of approved promise eligible programs only after not less than 14 months have elapsed from

the date that the state board of regents issued the final decision to remove such program.

(2) The provisions of this subsection shall apply to any program that has been approved by the state board of regents as a promise eligible program on or after July 1, 2021.

Sec. 13. K.S.A. 2022 Supp. 74-32,273 is hereby amended to read as follows: 74-32,273. (a) In addition to the fields of study provided in K.S.A. 2022 Supp. 74-32,272, and amendments thereto, an eligible postsecondary educational institution may designate an additional field of study for awarding a Kansas promise scholarship to meet local employment needs if:

(1) Promise eligible programs within such field of study are two-year associate degree programs or career and technical education certificates or stand-alone programs approved by the state board of regents that correspond to jobs that are high wage, high demand or critical need in the community;

(2) the institution already offers such field of study; and

(3) such field of study is one of the following:

(A) Agriculture;

(B) food and natural resources;

(C) education and training;

(D) law, public safety, corrections and security; or

(E) *transportation*, distribution and logistics.

(b) An eligible postsecondary educational institution that designates an additional promise eligible field of study pursuant to this section shall maintain the promise eligible field of study designation for at least three consecutive years. After maintaining such field of study for at least three years, the institution may designate a new promise eligible field of study that corresponds to a high wage, high demand or critical need occupation to replace the existing designated promise eligible field of study. Any newly designated field of study shall be subject to the requirements of this section.

(c) Programs designated by eligible institutions prior to the effective date of this act shall be maintained until all students currently enrolled in such programs have exhausted their promise scholarship eligibility.

Sec. 14. K.S.A. 2022 Supp. 74-32,274 is hereby amended to read as follows: 74-32,274. (a) ~~(1)~~ Subject to appropriations, the amount of a Kansas promise scholarship for a student for each academic year shall be *determined as follows*:

(1) *For a student enrolled in a promise eligible program offered by an eligible public postsecondary educational institution described in K.S.A. 2022 Supp. 74-32,271(b)(1)(A) or (B), and amendments thereto, the scholarship amount shall be the aggregate amount of tuition, required fees and the cost of books and required materials for the promise eligible program*

at the eligible postsecondary educational institution for the academic year in which the student is enrolled and receiving the scholarship minus the aggregate amount of all other aid awarded to such student for such academic year.

(2) ~~If~~ For a student ~~is~~ enrolled in a promise eligible program offered by an eligible private postsecondary educational institution described in K.S.A. 2022 Supp. 74-32,271(b)(1)(C), and amendments thereto, *the scholarship amount shall be the aggregate amount of tuition, mandatory required fees and the cost of books and materials for such program shall be for the academic year in which the student is enrolled and receiving the scholarship minus the aggregate amount of all other aid awarded to such student for such academic year, except that a scholarship awarded pursuant to this paragraph shall not exceed the average cost of tuition, mandatory required fees and the cost of books and required materials for such promise eligible program when offered by an eligible public postsecondary educational institution described in K.S.A. 2022 Supp. 74-32,271(b)(1)(A) or (B), and amendments thereto.*

(b) Kansas promise scholarships shall only be awarded to an eligible student whose family household income equals \$100,000 or less for a family of one or two, \$150,000 or less for a family of three and, for household sizes above three, a household income that is equal to or less than the family of three amount plus \$4,800 for each additional family member.

(c) (1) Kansas promise scholarship awards shall be used only to pay for up to a total of 68 promise scholarship funded credit hours or a total of \$20,000 in Kansas promise scholarship awards, whichever occurs first, over the lifetime of the student who received the Kansas promise scholarship award regardless of the eligible postsecondary educational institution such student attended.

(2) Kansas promise scholarship awards shall not be used to fund:

(A) Prerequisite classes required for a promise eligible program unless such classes are a designated course within the eligible program; or

(B) any remedial course, as defined in K.S.A. 76-7,151, and amendments thereto, unless such course is offered in a corequisite format.

(d) For each fiscal year, the appropriation made for the Kansas promise scholarship program shall not exceed \$10,000,000.

(e) The state board of regents shall disburse funds based on reimbursement requests from eligible postsecondary educational institutions. Reimbursement requests shall be based on the actual amount of Kansas promise scholarship amounts awarded by an eligible postsecondary educational institution for the appropriate academic period. Any eligible postsecondary educational institution seeking reimbursement shall submit a reimbursement request to the state board of regents on or before September 1, December 1, March 1 and June 1 of each year. The state

board of regents shall disburse the appropriate amount of funds to eligible postsecondary educational institutions on September 15, December 15, March 15 and June 15 each year.

(f) As used in this section, “aid” includes any grant, scholarship or financial assistance awards that do not require repayment. “Aid” does not include any military financial educational benefits or any family postsecondary savings account or other qualified tuition program established pursuant to section 529 of the internal revenue code of 1986, as amended.

Sec. 15. K.S.A. 2022 Supp. 74-32,275 is hereby amended to read as follows: 74-32,275. (a) To be eligible for a Kansas promise scholarship, a student shall:

- (1) Be a United States citizen;
- (2) be a Kansas resident;
- (3) (A) have graduated from an accredited Kansas public or private secondary school within the preceding 12 months;
(B) have completed the requirements for graduation at a non-accredited private secondary school as provided in K.S.A. 72-4345, and amendments thereto, within the preceding 12 months;
(C) attended an accredited Kansas public or private secondary school or non-accredited private school as provided in K.S.A. 72-4345, and amendments thereto, and obtained a high school equivalency certificate within the preceding 12 months;
(D) upon application for a scholarship, have been a resident of Kansas for three or more consecutive years as evidenced by the date of issuance on a Kansas-issued identification card or through Kansas voter registration records or Kansas income tax documentation;
- (E) be a dependent child of a military servicemember permanently stationed in another state and who, within the preceding 12 months, graduated from any out-of-state secondary school or obtained a high school equivalency certificate; or
(F) have been in the custody of the secretary for children and families at any time such student was enrolled in and attending any of the grades nine through 12 and not eligible for assistance under the Kansas foster child educational assistance act, K.S.A. 75-53,111 et seq., and amendments thereto;
- (4) complete the required scholarship application on such forms and in such manner as established by the state board of regents;
- (5) enter into a Kansas promise scholarship agreement pursuant to K.S.A. 2022 Supp. 74-32,276, and amendments thereto;
- (6) complete the free application for federal student aid for the academic year in which the student applies to receive a Kansas promise scholarship. Such submitted application shall be determined to be valid

and free of error codes in order to calculate the amount of scholarship to be awarded; and

(7) enroll in an eligible postsecondary educational institution in a promise eligible program.

(b) (1) To continue to receive a Kansas promise scholarship, a student shall:

(A) Maintain satisfactory academic progress, *including a grade point average of 2.0 or higher, or the equivalent thereof*, in the courses of the promise eligible program for which the student received a Kansas promise scholarship; and

(B) satisfy the requirements of a Kansas promise scholarship agreement as provided in K.S.A. 2022 Supp. 74-32,276, and amendments thereto.

(2) Any student who entered into a Kansas promise scholarship agreement under the provisions of the Kansas promise scholarship act as such act existed at the time such agreement was entered into shall be entitled to continue to use such Kansas promise scholarship and receive scholarship renewals to fulfill the requirements of such student's Kansas promise scholarship agreement. No subsequent revision or amendment to the Kansas promise scholarship act, the rules and regulations adopted thereunder, the list of approved promise eligible programs or the appropriations made pursuant to such act shall have the effect of terminating a student's Kansas promise scholarship agreement solely due to such amendment or revision.

(c) Nothing in this act shall prohibit a student who received postsecondary course credit while enrolled in high school from qualifying for a Kansas promise scholarship.

New Sec. 16. The provisions of the Kansas promise scholarship act, K.S.A. 74-32,271 through 74-32,277, and amendments thereto, shall expire on July 1, 2028.

Sec. 17. K.S.A. 2022 Supp. 48-3601, 74-32,272, 74-32,273, 74-32,274 and 74-32,275 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 20, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 65

SENATE BILL No. 243

AN ACT concerning minors; relating to settlement agreements; providing requirements and procedures for a person having legal custody of a minor to enter into a settlement agreement on behalf of the minor; increasing certain related dollar amounts in the Kansas uniform transfers to minors act and the act for obtaining a guardian or a conservator, or both; amending K.S.A. 38-1707, 38-1708, 59-3053, 59-3055 and 74-49,127 and K.S.A. 2022 Supp. 59-3075 and repealing the existing sections.

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

New Section 1. (a) A person having legal custody of a minor may settle or compromise and enter into a settlement agreement with a person against whom the minor has a claim or from whom the minor is to receive proceeds from the sale of real estate, for the settlement of any estate or from any other source if:

(1) A guardian or conservator has not been appointed for the minor;

(2) the total amount of the settlement proceeds due to the minor, after reduction from the total settlement amount of all medical expenses, medical liens, all other liens and reasonable attorney fees and costs, is \$25,000 or less if paid in cash, by draft or check, by direct deposit or by the purchase of a premium for an annuity;

(3) the moneys payable under the settlement agreement will be paid as provided in subsections (c) and (d); and

(4) the person entering into the settlement agreement on behalf of the minor completes an affidavit or verified statement that attests that the person:

(A) Has made a reasonable inquiry and that to the best of the person's knowledge:

(i) The minor will be fully compensated by the settlement; or

(ii) there is no practical way to obtain additional amounts from the party or parties entering into the settlement agreement with the minor; and

(B) understands and acknowledges that such person is obligated by law to deposit the settlement directly into a restricted savings or other restricted investment account or purchase an annuity as provided in subsection (c).

(b) The attorney representing the person entering into the settlement agreement on behalf of the minor, if any, shall maintain the affidavit or verified statement completed under subsection (a)(4) in the attorney's file for a period of five years.

(c) The moneys payable under the settlement agreement shall be paid as follows:

(1) If the minor or person entering into the settlement agreement on behalf of the minor is represented by an attorney and the settlement is

paid in cash, by draft or check or by direct deposit into the attorney's trust account maintained in compliance with supreme court rules to be held for the benefit of the minor, the attorney shall:

(A) Timely deposit the moneys received on behalf of the minor directly into a restricted savings or other restricted investment account that only allows withdrawals from the account under the circumstances specified in subsection (d); or

(B) purchase an annuity by direct payment to the issuer of the annuity with the minor designated as the sole beneficiary of the annuity.

(2) If the minor or person entering into the settlement agreement on behalf of the minor is not represented by an attorney and the settlement is paid by check, draft or direct deposit, the minor or person entering into the settlement agreement on behalf of the minor shall provide the person or entity with whom the minor has settled the claim with the information sufficient to draw a check or draft made payable, or complete an electronic transfer of settlement funds:

(A) Into a restricted savings or other restricted investment account that only allows withdrawals from the account under the circumstances specified in subsection (d); or

(B) to purchase an annuity by direct payment to the issuer of the annuity with the minor designated as the sole beneficiary of the annuity.

(3) If the minor is under the care, custody and control of the state, the secretary for children and families shall establish a restricted trust account or subaccount of a trust account that earns interest for the benefit of the minor for the purpose of receiving moneys payable to the minor under the settlement agreement. If the settlement is paid:

(A) In cash or by draft or check, the moneys received on behalf of the minor shall be timely deposited into the account established under this paragraph and notice of the deposit to the minor and the person entering into the settlement agreement on behalf of the minor shall be delivered by personal service or first-class mail;

(B) by direct deposit, the minor, the person entering into the settlement on behalf of the minor or the department, shall provide the person or entity with whom the minor has settled the claim with the information sufficient to complete an electronic transfer of settlement funds into the account established under this paragraph and notice of the deposit to the minor and the person entering into the settlement agreement on behalf of the minor shall be delivered by personal service or first-class mail; or

(C) through the purchase of an annuity, direct payment shall be made to the issuer of the annuity with the minor designated as the sole beneficiary of the annuity.

(d) (1) The moneys in the minor's restricted savings or other restricted investment account, trust account or trust subaccount established under

subsection (c) may not be withdrawn, removed, paid out or transferred to any person, including the minor, except as follows:

- (A) Pursuant to court order;
- (B) upon the minor attaining the age of majority or being otherwise emancipated; or
- (C) upon the minor's death.

(2) Upon the minor's or account holder's death, the balance of such account shall be paid to the payable on death beneficiary in accordance with K.S.A. 9-1215, and amendments thereto, or, in the absence of a named payable on death beneficiary, in accordance with the provisions of the Kansas probate code.

(e) A signed settlement agreement entered into on behalf of the minor in compliance with subsection (a) is binding on the minor without the need for court approval or review, has the same force and effect as if the minor were a competent adult entering into the settlement agreement, shall serve to fully release all claims of the minor encompassed by the settlement agreement and may be relied on by a financial institution or other entity, in lieu of a court order, when opening a restricted savings or other restricted investment account or purchasing an annuity on behalf of a minor pursuant to this section.

(f) (1) Any person or entity against whom a minor has a claim that settles the claim with the minor in good faith under this section shall not be liable to the minor for any claims arising from the settlement of the claim.

(2) An insurer who in good faith transfers funds into a restricted savings or other restricted investment account or to purchase an annuity at the direction of the minor or the minor's representatives who entered into a settlement agreement shall not be liable to the minor or the minor's representatives for any claims arising from the use of such funds after the transfer is completed.

(3) A financial institution who in good faith opens a restricted savings or other restricted investment account at the direction of the minor or the minor's representatives who entered into a settlement agreement shall not be liable to the minor or the minor's representatives for any claims arising from the use of such funds.

(g) Nothing in this section shall prevent any person acting on behalf of the minor from filing for guardianship, limited guardianship or conservatorship in an appropriate district court and requesting the district court to approve the settlement on behalf of the minor and oversee the settlement proceeds.

(h) Nothing in this section shall prevent the minor or any person acting on behalf of the minor from filing in an appropriate district court and requesting the district court to approve the settlement agreement, the affidavit or verified statement of the person entering into the settlement

agreement, the terms and disposition of the settlement proceeds or any other matter or agreement relating to or arising from the claims encompassed by the settlement agreement. The district court shall award any docket fees required to file the action to the minor or person acting on behalf of the minor.

Sec. 2. K.S.A. 38-1707 is hereby amended to read as follows: 38-1707.

(a) Subject to subsection (c), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to K.S.A. 38-1710, *and amendments thereto*, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(b) Subject to subsection (c), a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to K.S.A. 38-1710, *and amendments thereto*.

(c) A transfer under subsection (a) or (b) may be made only if ~~(i)~~:

(1) The personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor, ~~(ii)~~;

(2) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument, ~~;~~ and ~~(iii)~~

(3) the transfer is authorized by the court if ~~it~~ *such transfer* exceeds ~~\$10,000~~ \$25,000 in value.

Sec. 3. K.S.A. 38-1708 is hereby amended to read as follows: 38-1708.

(a) Subject to subsections (b) and (c), a person not subject to K.S.A. 38-1706 or 38-1707, *and amendments thereto*, who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to K.S.A. 38-1710, *and amendments thereto*.

(b) If a person having the right to ~~do so~~ *nominate a custodian* under K.S.A. 38-1704, *and amendments thereto*, has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(c) If no custodian has been nominated under K.S.A. 38-1704, *and amendments thereto*, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ~~\$10,000~~ \$25,000 in value.

Sec. 4. K.S.A. 59-3053 is hereby amended to read as follows: 59-3053.

(a) A natural guardian shall have the right to the custody of the natural guardian's minor child and the right to exercise control over the person of the natural guardian's minor child as provided by law, unless a guardian has been appointed for the minor. The natural guardian of such minor

has the right and responsibility to hold in trust and manage such person's estate for such person's benefit all of the personal and real property vested in such minor when the total of such property does not exceed ~~\$10,000~~ \$25,000 in value, unless a guardian or conservator has been appointed for the minor.

(b) Nothing in this act shall be construed to relieve a natural guardian of any obligation imposed by law for the support, maintenance, care, treatment, habilitation or education of that natural guardian's minor child.

Sec. 5. K.S.A. 59-3055 is hereby amended to read as follows: 59-3055.

(a) Any court having either control over or possession of any amount of money not exceeding \$100,000, the right to which is vested in a minor, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, and notwithstanding the authority of a natural guardian as provided for in K.S.A. 59-3053, and amendments thereto, the deposit of the money in a savings account of a bank, credit union, savings and loan association or any other investment account that the court may authorize, payable either to a conservator, if one shall be appointed for the minor, or to the minor upon attaining ~~the age of~~ 18 years of age.

(b) Any court having either control over or possession of any amount of money not exceeding ~~\$10,000~~ \$25,000, the right to which is vested in a minor, shall have the discretion to order the payment of the money to any person, including the natural guardian of the minor, or the minor. If the person is the conservator for the minor, the court may waive or recommend the waiver of the requirement of a bond. If the person is anyone other than the minor, the court shall order that person to hold in trust and manage such person's estate for such person's benefit.

(c) Any court having either control over or possession of any amount of money not exceeding ~~\$10,000~~ \$25,000, the right to which is vested in a person for whom a guardian has been appointed, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, the deposit of the money in a savings account of a bank, credit union or savings and loan association, payable to the guardian for the benefit of the ward if authorized pursuant to ~~subsection (c)(8) of~~ K.S.A. 59-3075(e)(8), and amendments thereto, payable to a conservator, if one shall be appointed for the person, or payable to the ward on restoration to capacity.

Sec. 6. K.S.A. 2022 Supp. 59-3075 is hereby amended to read as follows: 59-3075. (a) (1) The individual or corporation appointed by the court to serve as the guardian shall carry out diligently and in good faith, the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section as well as any specific duties, responsibilities, powers and authorities assigned to the guardian by the court. In doing so, a guardian shall at all times be subject to the control

and direction of the court, and shall act in accordance with the provisions of any guardianship plan filed with the court pursuant to K.S.A. 59-3076, and amendments thereto. The court shall have the authority to appoint counsel for the guardian, and the fees of such attorney may be assessed as costs pursuant to K.S.A. 59-3094, and amendments thereto.

(2) A guardian shall become and remain personally acquainted with the ward, the spouse of the ward and with other interested persons associated with the ward and who are knowledgeable about the ward, the ward's needs and the ward's responsibilities. A guardian shall exercise authority only as necessitated by the ward's limitations. A guardian shall encourage the ward to participate in making decisions affecting the ward. A guardian shall encourage the ward to act on the ward's own behalf to the extent the ward is able. A guardian shall encourage the ward to develop or regain the skills and abilities necessary to meet the ward's own essential needs and to otherwise manage the ward's own affairs. In making decisions on behalf of the ward, a guardian shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian shall strive to assure that the personal, civil and human rights of the ward are protected. A guardian shall at all times act in the best interests of the ward and shall exercise reasonable care, diligence and prudence.

(b) A guardian shall have the following general duties, responsibilities, powers and authorities:

(1) If the ward is a minor, to have the custody and control of the minor; and to provide for the minor's care, treatment, habilitation, education, support and maintenance;

(2) if the ward is an adult, to take charge of the person of the ward; and to provide for the ward's care, treatment, habilitation, education, support and maintenance;

(3) to consider and either provide on behalf of the ward necessary or required consents or refuse the same;

(4) to assure that the ward resides in the least restrictive setting appropriate to the needs of the ward and which is reasonably available;

(5) to assure that the ward receives any necessary and reasonably available medical care, consistent with the provisions of K.S.A. 59-3077, and amendments thereto, when applicable, and any reasonably available nonmedical care or other services as may be needed to preserve the health of the ward or to assist the ward to develop or retain skills and abilities;

(6) to promote and protect the comfort, safety, health and welfare of the ward;

(7) to make necessary determinations and arrangements for, and to give the necessary consents in regard to, the ward's funeral arrangements, burial or cremation, the performance of an autopsy upon the body of the ward, and anatomical gifts of the ward, subject to the provisions and lim-

itations provided for in K.S.A. 65-3228, K.S.A. 65-2893 and 65-1734, and amendments thereto; and

(8) to exercise all powers and to discharge all duties necessary or proper to implement the provisions of this section.

(c) A guardian shall not be obligated by virtue of the guardian's appointment to use the guardian's own financial resources for the support of the ward.

(d) A guardian shall not be liable to a third person for the acts of the ward solely by virtue of the guardian's appointment, nor shall a guardian who exercises reasonable care in selecting a third person to provide any medical or other care, treatment or service for the ward be liable for any injury to the ward resulting from the wrongful conduct of that third person.

(e) A guardian shall not have the power:

(1) To prohibit the marriage or divorce of the ward;

(2) to consent, on behalf of the ward, to the termination of the ward's parental rights;

(3) to consent to the adoption of the ward, unless approved by the court;

(4) to consent, on behalf of the ward, to any psychosurgery, removal of any bodily organ, or amputation of any limb, unless such surgery, removal or amputation has been approved in advance by the court, except in an emergency and when necessary to preserve the life of the ward or to prevent serious and irreparable impairment to the physical health of the ward;

(5) to consent, on behalf of the ward, to the sterilization of the ward, unless approved by the court following a due process hearing held for the purposes of determining whether to approve such, and during which hearing the ward is represented by an attorney appointed by the court;

(6) to consent, on behalf of the ward, to the performance of any experimental biomedical or behavioral procedure on the ward, or for the ward to be a participant in any biomedical or behavioral experiment, without the prior review and approval of such by either an institutional review board as provided for in title 45, part 46 of the code of federal regulations, or if such regulations do not apply, then by a review committee established by the agency, institution or treatment facility at which the procedure or experiment is proposed to occur, composed of members selected for the purposes of determining whether the proposed procedure or experiment:

(A) Does not involve any significant risk of harm to the physical or mental health of the ward, or the use of aversive stimulants, and is intended to preserve the life or health of the ward or to assist the ward to develop or regain skills or abilities; or

(B) involves a significant risk of harm to the physical or mental health of the ward, or the use of an aversive stimulant, but that the conducting of

the proposed procedure or experiment is intended either to preserve the life of the ward, or to significantly improve the quality of life of the ward, or to assist the ward to develop or regain significant skills or abilities, and that the guardian has been fully informed concerning the potential risks and benefits of the proposed procedure or experiment or of any aversive stimulant proposed to be used, and as to how and under what circumstances the aversive stimulant may be used, and has specifically consented to such;

(7) to consent, on behalf of the ward, to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, except:

(A) In accordance with the provisions of any declaration of the ward made pursuant to the provisions of K.S.A. 65-28,101 through 65-28,109, and amendments thereto; or

(B) if the ward, prior to the court's appointment of a guardian pursuant to K.S.A. 59-3067, and amendments thereto, shall have executed a durable power of attorney for health care decisions pursuant to K.S.A. 58-629, and amendments thereto, and such shall not have been revoked by the ward prior thereto, and there is included ~~therein~~ *in such power of attorney* any provision relevant to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, then the guardian shall have the authority to act as provided for ~~therein in such power of attorney~~, even if the guardian has revoked or otherwise amended that power of attorney pursuant to the authority of K.S.A. 58-627, and amendments thereto, or the guardian may allow the agent appointed by the ward to act on the ward's behalf if the guardian has not revoked or otherwise amended that power of attorney; or

(C) in the circumstances where the ward's treating physician shall certify in writing to the guardian that the ward is in a persistent vegetative state or is suffering from an illness or other medical condition for which further treatment, other than for the relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses, and which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order which would have the effect of withholding or withdrawing life-saving or life-sustaining medical care, treatment, services or procedures. Such written certification shall be approved by an order issued by the court;

(8) to exercise any control or authority over the ward's estate, except if the court shall specifically authorize such. The court may assign such authority to the guardian, including the authority to establish certain trusts

as provided in K.S.A. 59-3080, and amendments thereto, and may waive the requirement of the posting of a bond, only if:

(A) Initially, the combined value of any funds and property in the possession of the ward or in the possession of any other person or entity, but which the ward is otherwise entitled to possess, equals ~~\$10,000~~ \$25,000 or less; and

(B) either the court requires the guardian to report to the court the commencement of the exercising of such authority, or requires the guardian to specifically request of the court the authority to commence the exercise of such authority, as the court shall specify; and

(C) the court also requires the guardian, whenever the combined value of such funds and property exceeds ~~\$10,000~~ \$25,000, to:

(i) File a guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, which contains elements similar to those which would be contained in a conservatorship plan as provided for in K.S.A. 59-3078, and amendments thereto;

(ii) petition the court for appointment of a conservator as provided for in K.S.A. 59-3058, 59-3059 or 59-3060, and amendments thereto; or

(iii) notify the court as the court shall specify that the value of the conservatee's estate has equaled or exceeded ~~\$10,000~~ \$25,000, if the court has earlier appointed a conservator but did not issue letters of conservatorship pending such notification;

(9) to place the ward in a treatment facility as defined in K.S.A. 59-3077, and amendments thereto, except if authorized by the court as provided for ~~therein in that section~~; or

(10) to access digital assets of the ward except if authorized by the court pursuant to K.S.A. 2022 Supp. 58-4814, and amendments thereto.

(f) The guardian shall file with the court reports concerning the status of the ward and the actions of the guardian as the court shall direct pursuant to K.S.A. 59-3083, and amendments thereto.

Sec. 7. K.S.A. 74-49,127 is hereby amended to read as follows: 74-49,127. (1) Any payment made to a named beneficiary as provided in this section, shall be a full discharge and release to the system from any further claims. Any payment made to a beneficiary as provided in ~~clauses (A), (B), (C), (D), (E) or (F) of subsection (7) of K.S.A. 74-4902(7)(A), (B), (C), (D), (E) or (F) or in clauses (1), (2), (3), (4), (5) or (6) of subsection (k) of K.S.A. 20-2601(k)(1), (2), (3), (4), (5) or (6),~~ and amendments thereto, as determined by the board, shall be a full discharge and release to the system from any further claims. Whenever any payment is payable to more than one beneficiary, such payment shall be made to such beneficiaries jointly.

(2) Any benefits payable to a beneficiary or beneficiaries who are incompetent shall be made in the name of the beneficiary or beneficiaries

and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law, except that in those cases where the benefit involves an amount not to exceed \$500, the board is hereby authorized in its discretion without the appointment of a conservator or in the giving of a bond to pay such amount as is due to the incompetent person or persons themselves.

(3) Any lump-sum benefits payable to a beneficiary or beneficiaries who are minor children and which amount totals ~~\$10,000~~ \$25,000 or more shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law except that in those cases where the benefit involves an amount not to exceed \$500, the board is hereby authorized in its discretion without the appointment of a conservator or the giving of a bond to pay such amount as is due to the minor or minors themselves. If no conservator is lawfully appointed, the system will credit interest at 4% on all benefits due and payable and shall pay all benefits plus interest to the beneficiary or beneficiaries who are minor children when they attain age 18 years. Any benefits payable to a beneficiary or beneficiaries who are minor children and which amount which totals more than \$500 but less than ~~\$10,000~~ \$25,000, may be made in the name of the beneficiary or beneficiaries and paid under the uniform transfers to minors act as provided in K.S.A. 38-1701 et seq., and amendments thereto.

(4) Any monthly benefits payable to a beneficiary or beneficiaries who are minor children shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law. If no conservator is lawfully appointed, the system will credit interest at 4% on all benefits due and payable and shall pay all benefits plus interest to the beneficiary or beneficiaries who are minor children when they attain age 18 years.

(5) As used in this section, “system” means the Kansas public employees retirement system, the Kansas police and firemen’s retirement system and the retirement system for judges.

Sec. 8. K.S.A. 38-1707, 38-1708, 59-3053, 59-3055 and 74-49,127 and K.S.A. 2022 Supp. 59-3075 are hereby repealed.

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

Approved April 20, 2023.

CHAPTER 66

House Substitute for SENATE BILL No. 244
(Amended by Chapter 91)

AN ACT concerning business entities; relating to the Kansas general corporation code, the business entity transactions act, the business entity standard treatment act, the Kansas revised uniform limited partnership act and the Kansas uniform partnership act; facilitating the use of electronic transmissions and electronic signatures with certain exceptions; revising procedures and requirements related to emergency bylaws and actions under emergency conditions; merger or consolidation; dissolution and revocation or restoration of revoked or forfeited articles of incorporation or authority to engage in business and revival; modifying fees charged by the secretary of state for certain filings and copies; amending K.S.A. 17-6520, 56a-105 and 79-1119 and K.S.A. 2022 Supp. 17-2036, 17-2718, 17-4634, 17-4677, 17-6002, 17-6004, 17-6008, 17-6010, 17-6011, 17-6014, 17-6301, 17-6305, 17-6401, 17-6408, 17-6410, 17-6413, 17-6426, 17-6427, 17-6428, 17-6502, 17-6503, 17-6509, 17-6512, 17-6514, 17-6518, 17-6522, 17-6701, 17-6702, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6712, 17-6712, as amended by section 36 of this act, 17-6804, 17-6812, 17-7001, 17-7002, 17-7003, 17-72a04, 17-72a05, 17-72a07, 17-7302, 17-7503, 17-7504, 17-7505, 17-7506, 17-76,136, 17-76,139, 17-78-102, 17-78-202, 17-78-203, 17-78-205, 17-78-302, 17-78-606, 17-7914, 17-7918, 17-7919, 17-7924, 17-7929, 17-7933, 56-1a605, 56-1a606, 56-1a607, 56a-1201, 56a-1202 and 79-3234 and repealing the existing sections; also repealing K.S.A. 17-7514, 56-1a608, 56-1a610, 56a-1203 and 56a-1204 and K.S.A. 2022 Supp. 17-72a03 and 17-7511.

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

New Section 1. (a) (1) Except as provided in subsection (b), without limiting the manner in which any act or transaction may be documented or the manner in which a document may be signed or delivered:

(A) Any act or transaction contemplated or governed by this code or the articles of incorporation or bylaws may be provided for in a document. An electronic transmission shall be deemed the equivalent of a written document. “Document” means:

(i) Any tangible medium on which information is inscribed and includes handwritten, typed, printed or similar instruments and copies of such instruments; and

(ii) an electronic transmission.

(B) Whenever this code or the articles of incorporation or bylaws require or permit a signature, the signature may be a manual, facsimile, conformed or electronic signature. “Electronic signature” means an electronic symbol or process that is attached to, or logically associated with, a document and executed or adopted by a person with an intent to execute, authenticate or adopt the document. A person may execute a document with such person’s signature.

(C) Unless otherwise agreed between the sender and recipient, and in the case of proxies or consents given by or on behalf of a stockholder, subject to the additional requirements set forth in K.S.A. 17-6502(c)

(2) and (c)(3) or 17-6518(d)(1), and amendments thereto, an electronic transmission shall be deemed delivered to a person for purposes of this code and the articles of incorporation and bylaws when such electronic transmission enters an information processing system that the person has designated for the purpose of receiving electronic transmissions of the type delivered if the electronic transmission is in a form capable of being processed by that system and such person is able to retrieve the electronic transmission. Whether a person has designated an information processing system is determined by the articles of incorporation or bylaws or from the context and surrounding circumstances, including the parties' conduct. An electronic transmission is delivered under this section even if no person is aware of such transmission's receipt. Receipt of an electronic acknowledgement from an information processing system establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(2) This code shall not prohibit one or more persons from conducting a transaction in accordance with the uniform electronic transactions act, K.S.A. 16-1601 et seq., and amendments thereto, if the part or parts of the transaction that are governed by the code are documented, signed and delivered in accordance with this subsection or otherwise in accordance with the code. This subsection shall apply solely for purposes of determining whether an act or transaction has been documented, signed and delivered in accordance with this code and the articles of incorporation and bylaws.

(b) (1) Subsection (a) shall not apply to:

(A) A document filed with or submitted to the secretary of state, the clerk of a district court or a court or other judicial or governmental body of this state;

(B) a document comprising part of the stock ledger;

(C) a certificate representing a security;

(D) a document referenced as a notice, or waiver of notice, by this code or the articles of incorporation or bylaws and that expressly provides the manner of signing or delivery;

(E) a ballot to vote on actions at a meeting of stockholders; and

(F) an act or transaction effected pursuant to K.S.A. 2022 Supp. 17-6808a, and amendments thereto, article 71 or 73 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, or the business entity standards treatment act, K.S.A. 2022 Supp. 17-7901 et seq., and amendments thereto.

(2) The provisions of paragraph (1) shall not create any presumption about the lawful means to document a matter addressed by this subsection or the lawful means to sign or deliver a document addressed by this subsection. No provision of the articles of incorporation or bylaws shall

limit the application of subsection (a) except for a provision that expressly restricts or prohibits the use of an electronic transmission or electronic signature, or any form thereof, or expressly restricts or prohibits the delivery of an electronic transmission to an information processing system.

(c) In the event that any provision of this code is deemed to modify, limit or supersede the federal electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et. seq., the provisions of this code shall control to the fullest extent permitted by 15 U.S.C. § 7002(a)(2).

(d) This section shall be a part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 2. K.S.A. 2022 Supp. 17-2036 is hereby amended to read as follows: 17-2036. (a) Every business trust shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the business trust at the close of business on the last day of its tax period under the Kansas income tax act next preceding the date of filing, but if a business trust's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be made on forms provided by the secretary of state and shall be filed biennially, as determined by the year that the business trust filed its formation documents. A business trust that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A business trust that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the business trust's tax period but not later than at the time prescribed by law for filing the business trust's annual Kansas income tax return.

(c) The report shall be signed by a trustee or other authorized officer under penalty of perjury and contain the following:

(1) Executed copies of all amendments to the instrument by which the business trust was created, or to prior amendments thereto, that have been adopted and have not ~~heretofore~~ been filed under K.S.A. 17-2033, and amendments thereto, and accompanied by the fee prescribed ~~therein~~ *by law* for each such amendment; ~~and~~

(2) a verified list of the names and *postal* addresses of its trustees as of the end of each of such business trust's tax periods included in the report; *and*

(3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) (1) At the time of filing the business entity information report, the business trust shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary, multiplied by the number of tax periods included in the report.

(2) The failure of any domestic or foreign business trust to file its business entity information report and pay the required fee within 90 days from the date ~~on which~~ *when* such report and fee are due, or, in the case of a report filing and fee received by mail, postmarked within 90 days from the date ~~on which~~ *when* such report and fee are due, shall work a forfeiture of such business trust's authority to transact business in this state and all of the remedies, procedures and penalties specified in K.S.A. 17-7509 and 17-7510, and amendments thereto, with respect to a corporation that fails to file its business entity information report or pay the required fee within 90 days after such report and fee are due, shall be applicable to such business trust.

(e) (1) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order and paragraph (2). All copies of such applications shall be preserved for one year and until the secretary of state orders that the copies are to be destroyed.

(2) A copy of such application shall be open to inspection by or disclosure to any person designated by resolution of the trustees of the business trust.

Sec. 3. K.S.A. 2022 Supp. 17-2718 is hereby amended to read as follows: 17-2718. (a) Each professional corporation organized under the laws of this state shall file with the secretary of state a written business entity information report stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed biennially, as determined by the year that the professional corporation filed its formation documents. A professional corporation that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A professional corporation that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the professional corporation's tax period but not later than at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) ~~The names and addresses of all officers, directors and shareholders~~ *name and postal address for each officer, director and shareholder of the professional corporation;*

(2) a statement that each officer, director and shareholder is or is not a qualified person as defined in K.S.A. 17-2707, and amendments thereto, and setting forth the date ~~on which~~ *when* any shares of the corporation were no longer owned by a qualified person; and

(3) ~~the amount of capital stock issued~~ *location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) The report shall be signed by its president, secretary, treasurer or other officer duly authorized so to act, or by any two of its directors, or by an incorporator in the event the corporation's board of directors shall not have been elected. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. The report shall be subscribed by ~~the person~~ *individual* as true, under penalty of perjury. Upon request by the regulatory board that licenses the shareholders described in the report, a copy of the report shall be forwarded to the regulatory board.

(e) At the time of filing its business entity information report, each professional corporation shall pay the fee prescribed by K.S.A. 17-7503, and amendments thereto.

Sec. 4. K.S.A. 2022 Supp. 17-4634 is hereby amended to read as follows: 17-4634. (a) Every corporation organized under the electric cooperative act of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if any such corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed biennially, as determined by the year that the electric cooperative filed its formation documents. An electric cooperative that filed formation documents in an even-numbered year shall file a report in each even-numbered year. An electric cooperative that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the electric cooperative's tax period but not later than the 15th day of the fourth month following the close of the tax year of the electric cooperative.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name of the corporation;

(2) the location of the principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code;*

(3) the names and *postal* addresses of the president, secretary, treasurer and all directors;

(4) the number of memberships issued; and

(5) the change or changes, if any, in the particulars made since the last business entity information report.

(d) Such reports shall be signed by the president, ~~vice president~~ *vice president* or secretary of the corporation under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, each such corporation shall pay a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 5. K.S.A. 2022 Supp. 17-4677 is hereby amended to read as follows: 17-4677. (a) Every cooperative organized under the renewable energy electric generation cooperative act shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the cooperative at the close of business on the last day of its tax period next preceding the date of filing, but if any such cooperative's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be filed biennially, as determined by the year that the renewable energy electric generation cooperative filed its articles of formation documents. A renewable energy electric generation cooperative that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A renewable energy electric generation cooperative that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the electric cooperative's tax period but not later than the 15th day of the sixth month following the close of the tax year of the electric cooperative.

(c) The report shall be made on a form provided by the secretary of state, containing the following information:

(1) The name of the cooperative;

(2) the location of the principal office of the cooperative, *including the building and suite number, street name or rural route number with box number, city, state and zip code*;

(3) the names and *postal* addresses of the president, secretary, treasurer and directors of the cooperative;

(4) the number of members of the cooperative; and

(5) the change or changes, if any, in the particulars made since the last business entity information report.

(d) The report shall be dated, signed by the president, ~~vice president~~

vice president or secretary of the cooperative under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the cooperative shall pay a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 6. K.S.A. 2022 Supp. 17-6002 is hereby amended to read as follows: 17-6002. (a) The articles of incorporation shall set forth:

(1) The name of the corporation pursuant to K.S.A. 2022 Supp. 17-7918 and 17-7919, and amendments thereto, of the business entity standard treatment act;

(2) the *postal* address of the corporation's registered office in this state; ~~which shall be stated in accordance with K.S.A. 2022 Supp. 17-7924, and amendments thereto,~~ and the name of its resident agent at such address;

(3) the nature of the business or purposes to be conducted or promoted. It shall be sufficient to state, either alone or with other businesses or purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized under the Kansas general corporation code, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any;

(4) (A) if the corporation is to be authorized to issue only one class of stock, the total number of shares of stock ~~which~~ *that* the corporation shall have authority to issue and the par value of each of such shares, or a statement that all such shares are to be without par value. If the corporation is to be authorized to issue more than one class of stock, the articles of incorporation shall set forth the total number of shares of all classes of stock ~~which~~ *that* the corporation shall have authority to issue and the number of shares of each class, and shall specify each class the shares of which are to be without par value, and each class the shares of which are to have a par value and the par value of the shares of each such class. The articles of incorporation shall also set forth a statement of the designations and the powers, preferences and rights, and the qualifications, limitations or restrictions thereof, ~~which~~ *that* are permitted by K.S.A. 17-6401, and amendments thereto, in respect to any class or classes of stock or any series of any class of stock of the corporation and the fixing of which by the articles of incorporation is desired, and an express grant of such authority as it may then be desired to grant to the board of directors to fix by resolution or resolutions any thereof that may be desired but which shall not be fixed by the articles of incorporation.

(B) (i) ~~The foregoing~~ provisions of this subsection shall not apply to nonstock corporations. In the case of nonstock corporations, the fact that they are not authorized to issue capital stock shall be stated in the arti-

cles of incorporation. The conditions of membership, or other criteria for identifying members, of nonstock corporations shall likewise be stated in the articles of incorporation or ~~the~~ bylaws. Nonstock corporations shall have members, but failure to have members shall not affect otherwise valid corporate acts or work a forfeiture or dissolution of the corporation.

(ii) Nonstock corporations may provide for classes or groups of members having relative rights, powers and duties, and may make provision for the future creation of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. Except as otherwise provided in this code, nonstock corporations may also provide that any member or class or group of members shall have full, limited or no voting rights or powers, including that any member or class or group of members shall have the right to vote on a specified transaction even if that member or class or group of members does not have the right to vote for the election of the members of the governing body of the corporation. Voting by members of a nonstock corporation may be on a per capita, number, financial interest, class, group or any other basis set forth.

(iii) The provisions referred to in paragraph (4)(B)(ii) may be set forth in the articles of incorporation or ~~the~~ bylaws. If neither the articles of incorporation nor ~~the~~ bylaws of a nonstock corporation state the conditions of membership, or other criteria for identifying members, the members of the corporation shall be deemed to be those entitled to vote for the election of the members of the governing body pursuant to the articles of incorporation or bylaws of such corporation or otherwise until thereafter otherwise provided by the articles of incorporation or ~~the~~ bylaws;

(5) the name and ~~mailing~~ *postal* address of the incorporator or incorporators; and

(6) if the powers of the incorporator or incorporators are to terminate upon the filing of the articles of incorporation, the names and ~~mailing~~ *postal* addresses of the persons who are to serve as directors until the first annual meeting of stockholders or until their successors are elected and qualify.

(b) In addition to the matters required to be set forth in the articles of incorporation by subsection (a), the articles of incorporation may also contain any or all of the following matters:

(1) Any provision for the management of the business and for the conduct of the affairs of the corporation, and any provision creating, defining, limiting and regulating the sale or other disposition of stock and the powers of the corporation, the directors and the stockholders, or any class of the stockholders, or the governing body, members or any class or group of members of a nonstock corporation, if such provisions are not contrary to

the laws of this state. Any provision ~~which~~ *that* is required or permitted by any section of this code to be stated in the bylaws may be stated instead in the articles of incorporation;

(2) the following provisions, in these words:

(A) For a corporation other than a nonstock corporation: “Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them or between this corporation and its stockholders or any class of them, any court of competent jurisdiction within the state of Kansas, on the application in a summary way of this corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this corporation under K.S.A. 17-6901, and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, may order a meeting of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the stockholders or class of stockholders of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, such compromise or arrangement and such reorganization shall, if sanctioned by the court to which the application has been made, be binding on all the creditors or class of creditors, or on all the stockholders or class of stockholders of this corporation, as the case may be, and also on this corporation”; or

(B) for a nonstock corporation: “Whenever a compromise or arrangement is proposed between this corporation and its creditors or any class of them or between this corporation and its members or any class of them, any court of competent jurisdiction within the state of Kansas may, on the application in a summary way of this corporation or of any creditor or member thereof or on the application of any receiver or receivers appointed for this corporation under K.S.A. 17-6901, and amendments thereto, or on the application of trustees in dissolution or of any receiver or receivers appointed for this corporation under the provisions of K.S.A. 17-6808 and 17-6901, and amendments thereto, order a meeting of the creditors or class or creditors, or of the members or class of members of this corporation, as the case may be, to be summoned in such manner as the court directs. If a majority in number representing $\frac{3}{4}$ in value of the creditors or class of creditors, or of the members or class of members of this corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this corporation as consequence of such compromise or arrangement, such compromise or arrangement and such

reorganization shall, if sanctioned by the court to which the application has been made, be binding on all the creditors or class of creditors, or on all the members or class of members, of this corporation, as the case may be, and also on this corporation”;

(3) such provisions as may be desired granting to the holders of the stock of the corporation, or the holders of any class or series of a class thereof, the preemptive right to subscribe to any or all additional issues of stock of the corporation of any or all classes or series thereof, or to any securities of the corporation convertible into such stock. No stockholder shall have any preemptive right to subscribe to an additional issue of stock or to any security convertible into such stock unless, and except to the extent that, such right is expressly granted to such stockholder in the articles of incorporation. All such rights in existence on July 1, 1972, shall remain in existence unaffected by this paragraph unless and until changed or terminated by appropriate action ~~which~~ *that* expressly provides for such change or termination;

(4) provisions requiring for any corporate action, the vote of a larger portion of the stock or of any class or series thereof, or of any other securities having voting power, or a larger number of the directors, than is required by this code;

(5) a provision limiting the duration of the corporation’s existence to a specified date; otherwise, the corporation shall have perpetual existence;

(6) a provision imposing personal liability for the debts of the corporation on its stockholders to a specified extent and upon specified conditions; otherwise, the stockholders of a corporation shall not be personally liable for the payment of the corporation’s debts except as they may be liable by reason of their own conduct or acts;

(7) the manner of adoption, alteration and repeal of bylaws; and

(8) a provision eliminating or limiting the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, ~~provided~~ *except* that such provision shall not eliminate or limit the liability of a director: (A) For any breach of the director’s duty of loyalty to the corporation or its stockholders; (B) for acts or omissions not in good faith or ~~which~~ *that* involve intentional misconduct or a knowing violation of law; (C) under the provisions of K.S.A. 17-6424, and amendments thereto; or (D) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. *An amendment, repeal or elimination of such a provision shall not affect its application with respect to an act or omission by a director occurring before such amendment, repeal or elimination unless the provision provides otherwise at the time of such act or omission.* All references in this

subsection to a director also shall be deemed to refer to such other person or persons, if any, who, pursuant to a provision of the articles of incorporation in accordance with K.S.A. 17-6301(a), and amendments thereto, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this code.

(c) It shall not be necessary to set forth in the articles of incorporation any of the powers conferred on corporations by this code.

(d) Except for provisions included pursuant to subsections (a)(1), (a)(2), (a)(5), (a)(6), (b)(2), (b)(5), (b)(7) and (b)(8), and provisions included pursuant to subsection (a)(4) specifying the classes, number of shares and par value of shares a corporation, other than a nonstock corporation, is authorized to issue, any provision of the articles of incorporation may be made dependent upon facts ascertainable outside such instrument, provided that the manner in which such facts shall operate upon the provision is clearly and explicitly set forth in the provision. As used in this subsection, ~~the term~~ “facts” includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(e) The articles of incorporation ~~may~~ *shall* not contain any provision that would impose liability on a stockholder for the attorney fees or expenses of the corporation or any other party in connection with an internal corporate claim, as defined in K.S.A. 2022 Supp. 17-6015, and amendments thereto.

Sec. 7. K.S.A. 2022 Supp. 17-6004 is hereby amended to read as follows: 17-6004. ~~The term~~ “Articles of incorporation,” as used in this code, unless the context requires otherwise, includes not only the original articles of incorporation filed to create a corporation, ~~which includes including~~ the charter, articles of association and any other instrument by whatever name known which a corporation has been or may be lawfully formed, but it also includes all other certificates, agreements of merger or consolidation, plans of reorganization or other instruments, ~~howsoever however~~ *however* designated, ~~which that~~ are filed pursuant to K.S.A. 2022 Supp. 17-7910, and amendments thereto, or any other section of this code, ~~the~~ *the business entity transactions act, K.S.A. 2022 Supp. 17-78-101 to 17-78-607, and amendments thereto, or the business entity standard treatment act, K.S.A. 2022 Supp. 17-7901 to 17-7939, and amendments thereto,* and ~~which that~~ have the effect of amending or supplementing in some respect a corporation’s ~~original~~ articles of incorporation.

Sec. 8. K.S.A. 2022 Supp. 17-6008 is hereby amended to read as follows: 17-6008. (a) After the filing of the articles of incorporation, an organization meeting of the incorporator or incorporators, or of the board of directors if the initial directors were named in the articles of incorporation, shall be held, either within or without this state, at the call of

a majority of the incorporators or directors, as the case may be, for the purposes of:

(1) Adopting bylaws, unless a different provision is made in the articles of incorporation for the adoption thereof;

(2) electing directors, if the meeting is of the incorporators, to serve or hold office until the first annual meeting of stockholders or until their successors are elected and qualify;

(3) electing officers if the meeting is of the directors;

(4) doing any other or further acts to perfect the organization of the corporation; and

(5) transacting such other business as may come before the meeting.

(b) The persons calling the meeting shall give to each other incorporator or director, as the case may be, at least two days' ~~written~~ notice thereof *in writing or by electronic transmission* by any usual means of communication, ~~which and such~~ notice shall state the time, place and purposes of the meeting as fixed by the persons calling it. Notice of the meeting need not be given to anyone who attends the meeting or who ~~signs a waiver of~~ *waives* notice either before or after the meeting.

(c) (1) *Unless otherwise restricted by the articles of incorporation:*

(A) Any action permitted to be taken at the organization meeting of the incorporators or directors, as the case may be, may be taken without a meeting if each incorporator or director, where there is more than one, or the sole incorporator or director where there is only one, ~~signs an instrument which states the action so taken~~ *consents thereto in writing or by electronic transmission; and*

(B) *a consent may be documented, signed and delivered in any manner permitted by section 1, and amendments thereto.*

(2) *Any person, whether or not then an incorporator or director, may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time, including a time determined upon the happening of an event, not later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this subsection at such effective time if such person is then an incorporator or director, as the case may be, and did not revoke the consent prior to such time. Any such consent shall be revocable prior to the time such consent becomes effective.*

(d) If any incorporator is not available to act, then any person for whom or on whose behalf the incorporator was acting directly or indirectly as employee or agent, may take action that such incorporator would have been authorized to take under this section or K.S.A. 17-6007, and amendments thereto, except that any instrument signed by such other person, or any record of the proceedings of a meeting in which such person participated, shall state that:

- (1) Such incorporator is not available and the reason therefor;
- (2) such incorporator was acting directly or indirectly as employee or agent for or on behalf of such person; and
- (3) such person's signature on such instrument or participation in such meeting is otherwise authorized and not wrongful.

Sec. 9. K.S.A. 2022 Supp. 17-6010 is hereby amended to read as follows: 17-6010. (a) The board of directors of any corporation may adopt emergency bylaws, subject to repeal or change by action of the stockholders ~~that, which~~ notwithstanding any ~~different~~ *contrary* provision elsewhere in this code or in chapters 17 and 66 of the Kansas Statutes Annotated, and amendments thereto, or in the articles of incorporation or bylaws, shall be operative during any emergency resulting from an attack on the United States or on a locality ~~in which~~ *where* the corporation conducts its business or customarily holds meetings of its board of directors or its stockholders, or during any nuclear or atomic disaster, or during the existence of any catastrophe, *including, but not limited to, an epidemic or pandemic, a declaration of a national emergency by the United States government* or other similar emergency condition, ~~as a result of which~~ *irrespective of whether* a quorum of the board of directors or a standing committee thereof ~~cannot~~ *can* readily be convened for action. *The emergency bylaws contemplated by this section may be adopted by the board of directors or, if a quorum cannot be readily convened for a meeting, by a majority of the directors present.* The emergency bylaws may make any provision that may be practical and necessary for the circumstances of the emergency, including provisions that:

- (1) A meeting of the board of directors or a committee thereof may be called by any officer or director in such manner and under such conditions as shall be prescribed in the emergency bylaws;

- (2) the director or directors in attendance at the meeting, or any greater number fixed by the emergency bylaws, shall constitute a quorum; and

- (3) the officers or other persons designated on a list approved by the board of directors before the emergency, all in such order of priority and subject to such conditions and for such period of time, not longer than reasonably necessary after the termination of the emergency, as may be provided in the emergency bylaws or in the resolution approving the list, shall be deemed directors for such meeting, to the extent required to provide a quorum at any meeting of the board of directors.

- (b) The board of directors, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during such emergency any or all officers or agents of the corporation shall be rendered incapable of discharging their duties for any reason.

- (c) The board of directors, either before or during any such emergency, may change the head office or designate several alternative head

offices or regional offices, or authorize the offices so to do, effective in the emergency.

(d) No officer, director or employee acting in accordance with any emergency bylaws shall be liable except for willful misconduct.

(e) To the extent not inconsistent with any emergency bylaws so adopted, the bylaws of the corporation shall remain in effect during any emergency, and upon its termination the emergency bylaws shall cease to be operative.

(f) Unless otherwise provided in emergency bylaws, notice of any meeting of the board of directors during such an emergency may be given only to such of the directors as it may be feasible to reach at the time and by such means as may be feasible at the time, including publication or radio.

(g) To the extent required to constitute a quorum at any meeting of the board of directors during such an emergency, and unless otherwise provided in emergency bylaws, the officers of the corporation who are present shall be deemed, in order of rank and within the same rank in order of seniority, directors for such meeting.

(h) Nothing contained in this section shall be deemed exclusive of any other provisions for emergency powers consistent with other sections of this code ~~which~~ *that* have been or may be adopted by corporations created under the provisions of this code.

(i) *During any emergency condition of a type described in subsection (a), the board of directors or, if a quorum cannot be readily convened for a meeting, a majority of the directors present may:*

(1) *Take any action that the board determines to be practical and necessary to address the circumstances of such emergency condition with respect to a meeting of stockholders of the corporation notwithstanding any provision to the contrary in this code or in the articles of incorporation or bylaws, including, but not limited to:*

(A) *Postponing any such meeting to a later time or date, with the record date for determining the stockholders entitled to notice of, and to vote at, such meeting applying to the postponed meeting irrespective of K.S.A. 17-6503, and amendments thereto; and*

(B) *with respect to a corporation subject to the reporting requirements of 15 U.S.C. §§ 78m(a) or 78o(d) and the rules and regulations promulgated thereunder, notifying stockholders of any postponement or a change of the place of the meeting, or a change to hold the meeting solely by means of remote communication, solely by a document publicly filed by the corporation with the securities and exchange commission pursuant to 15 U.S.C. §§ 78m, 78n or 78o(d) and the rules and regulations promulgated thereunder; and*

(2) *with respect to any dividend that has been declared as to which the record date has not occurred, change each of the record date and payment date to a later date or dates, if the changed payment date is not*

more than 60 days after the record date as changed. In either case, the corporation must give notice of such change to stockholders as promptly as practicable thereafter, and in any event before the record date then in effect, and such notice, in the case of a corporation subject to the reporting requirements of 15 U.S.C. §§ 78m(a) or 78o(d) and the rules and regulations promulgated thereunder, may be given solely by a document publicly filed with the securities and exchange commission pursuant to 15 U.S.C. §§ 78m, 78n or 78o(d) and the rules and regulations promulgated thereunder. No person shall be liable, and no meeting of stockholders shall be postponed or voided, for the failure to make a stocklist available pursuant to K.S.A. 17-6509, and amendments thereto, if it was not practicable to allow inspection during any such emergency condition.

Sec. 10. K.S.A. 2022 Supp. 17-6011 is hereby amended to read as follows: 17-6011. (a) Any civil action to interpret, apply, enforce or determine the validity of the provisions of the following may be brought in the district court, except to the extent that a statute confers exclusive jurisdiction on a court, agency or tribunal other than the district court:

- (1) The articles of incorporation or ~~the~~ bylaws of a corporation;
 - (2) any instrument, document or agreement:
 - (A) By which a corporation creates or sells, or offers to create or sell, any of its stock, or any rights or options respecting its stock;
 - (B) *to which a corporation and one or more holders of its stock are parties, and pursuant to which any such holder or holders sell or offer to sell any such stock; or*
 - (C) *by which a corporation agrees to sell, lease or exchange any of its property or assets, and such instrument, document or agreement provides that one or more holders of its stock approve of or consent to such sale, lease or exchange;*
 - (3) any written restrictions on the transfer, registration of transfer or ownership of securities under K.S.A. 17-6426, and amendments thereto;
 - (4) any proxy under K.S.A. 17-6502 or 17-6505, and amendments thereto;
 - (5) any voting trust or other voting agreement under K.S.A. 17-6508, and amendments thereto;
 - (6) any agreement, certificate of merger or consolidation; or certificate of ownership and merger governed by K.S.A. 17-6701 through 17-6703 or 17-6705 through 17-6708, and amendments thereto;
 - (7) any certificate of conversion under K.S.A. 17-6713, and amendments thereto; or
 - (8) any other instrument, document, agreement or certificate required by any provision of this code.
- (b) Any civil action to interpret, apply or enforce any provision of this code may be brought in the district court.

~~(e) This section shall be part of and supplemental to article 60 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 11. K.S.A. 2022 Supp. 17-6014 is hereby amended to read as follows: 17-6014. (a) Except as otherwise provided in subsections (b) and (c), the provisions of the Kansas general corporation code shall apply to nonstock corporations in the manner specified in this subsection:

(1) All references to stockholders of the corporation shall be deemed to refer to members of the corporation;

(2) all references to the board of directors of the corporation shall be deemed to refer to the governing body of the corporation;

(3) all references to directors or to members of the board of directors of the corporation shall be deemed to refer to members of the governing body of the corporation; and

(4) all references to stock, capital stock, or shares thereof of a corporation authorized to issue capital stock shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.

(b) Subsection (a) shall not apply to:

(1) K.S.A. 17-6002(a)(4), (b)(1) and (b)(2), 17-6009(a), 17-6301, 17-6404, 17-6505, 17-6518, 17-6520(b), 17-6601, 17-6602, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6801, 17-6805, 17-6805a, 17-7001, 17-7002, 17-7503~~(c)(4) and (d)(4)~~, 17-7504, *and* 17-7505~~(c)(4) and (d)(4) and 17-7514(e)~~, and amendments thereto, and K.S.A. 2022 Supp. 17-6014, and amendments thereto, that apply to nonstock corporations by their terms;

(2) K.S.A. 17-6002(e), the last sentence of 17-6009(b), 17-6401, 17-6402, 17-6403, 17-6405, 17-6406, 17-6407(d), 17-6408, 17-6411, 17-6412, 17-6413, 17-6414, 17-6415, 17-6416, 17-6417, 17-6418, 17-6501, 17-6502, 17-6503, 17-6504, 17-6506, 17-6509, 17-6512, 17-6521, 17-6603, 17-6604, 17-6701, 17-6702, 17-6803 and 17-6804, and amendments thereto, and K.S.A. 2022 Supp. 17-6427, ~~17-6428, 17-6429~~ and 17-72a04, and amendments thereto; and

(3) ~~article~~*articles* 72 and ~~article~~ 73 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.

(c) In the case of a nonprofit nonstock corporation, subsection (a) shall not apply to:

(1) The sections and articles listed in subsection (b);

(2) K.S.A. 17-6002(b)(3), 17-6304(a)(2), 17-6507, 17-6508, 17-6712, 17-7503, 17-7505, *and* 17-7509 ~~and 17-7511~~, and amendments thereto, and K.S.A. 2022 Supp. 17-6011(a)(2) and (a)(3), and amendments thereto; and

(3) article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, *other than* K.S.A. 17-6428 *and* 17-6429, *and*

amendments thereto, and K.S.A. 2022 Supp. 17-72a01 through 17-72a09, and amendments thereto.

(d) For purposes of the Kansas general corporation code:

(1) A “charitable nonstock corporation” is any nonprofit nonstock corporation that is exempt from taxation under § 501(c)(3) of the federal internal revenue code of 1986, 26 U.S.C. § 501(c)(3);

(2) a “membership interest” is, unless otherwise provided in a nonstock corporation’s articles of incorporation, a member’s share of the profits and losses of a nonstock corporation; or a member’s right to receive distributions of the nonstock corporation’s assets, or both;

(3) a “nonprofit nonstock corporation” is a nonstock corporation that does not have membership interests; and

(4) a “nonstock corporation” is any corporation organized under the Kansas general corporation code that is not authorized to issue capital stock.

Sec. 12. K.S.A. 2022 Supp. 17-6301 is hereby amended to read as follows: 17-6301. (a) The business and affairs of every corporation organized under this code shall be managed by or under the direction of a board of directors, except as may be otherwise provided in this code or in the articles of incorporation. If any such provision is made in the articles of incorporation, the powers and duties conferred or imposed upon the board of directors by this code shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation.

(b) The board of directors of a corporation shall consist of one or more members, each of whom shall be a natural person. The number of directors shall be fixed by, or in the manner provided in, the bylaws; unless the articles of incorporation fixes the number of directors, in which case a change in the number of directors shall be made only by amendment of the articles. Directors need not be stockholders unless so required by the articles of incorporation or the bylaws. The articles of incorporation or bylaws may prescribe other qualifications for directors. Each director shall hold office until such director’s successor is elected and qualified or until such director’s earlier resignation or removal. Any director may resign at any time upon notice given in writing or by electronic transmission to the corporation. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation ~~which~~ *that* is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. A majority of the total number of directors shall constitute a quorum for the transaction of business unless the articles of incorporation or the bylaws require a greater number. Unless the articles of incorporation provide otherwise, the bylaws may provide that a number less than a majority shall

constitute a quorum ~~which~~ *that* in no case shall be less than $\frac{1}{3}$ of the total number of directors ~~except that when a board of one director is authorized under this section, then one director shall constitute a quorum.~~ The vote of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors unless the articles of incorporation or the bylaws shall require a vote of a greater number.

(c) (1) All corporations incorporated prior to July 1, 2004, shall be governed by subsection (c)(2), except that any such corporation may by a resolution adopted by a majority of the whole board elect to be governed by subsection (c)(3), in which case subsection (c)(2) shall not apply to such corporation. All corporations incorporated on or after July 1, 2004, shall be governed by subsection (c)(3).

(2) The board of directors may, by resolution passed by a majority of the whole board, designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not the member or members present constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers ~~which~~ *that* may require it, but no such committee shall have the power or authority in reference to:

(A) Amending the articles of incorporation, except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the board of directors as provided in K.S.A. 17-6401, and amendments thereto, fix the designations and any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation or fix the number of shares of any series of stock or authorize the increase or decrease of the shares of any series;

(B) adopting an agreement of merger or consolidation pursuant to K.S.A. 17-6701 or 17-6702, and amendments thereto, recommending to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, recommending to the stockholders a

dissolution of the corporation or a revocation of a dissolution, or amending the bylaws of the corporation; or

(C) unless the resolution, bylaws or articles of incorporation expressly so provides, no such committee shall have the power or authority to declare a dividend, to authorize the issuance of stock or to adopt a certificate of ownership and merger pursuant to K.S.A. 17-6703, and amendments thereto.

(3) The board of directors may designate one or more committees, each committee to consist of one or more of the directors of the corporation. The board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. The bylaws may provide that in the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors, or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers ~~which~~ *that* may require it, but no such committee shall have the power or authority in reference to the following matters:

(A) Approving or adopting, or recommending to the stockholders, any action or matter, other than the election or removal of directors, expressly required by this code to be submitted to stockholders for approval; or

(B) adopting, amending or repealing any bylaw of the corporation.

(4) Unless otherwise provided in the articles of incorporation, the bylaws or the resolution of the board of directors designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee. *Except for references to subcommittees of committees in this subsection, every reference in the code to a committee of the board of directors or a member of a committee shall be deemed to include a reference to a subcommittee or member of a subcommittee.*

(5) *A majority of the directors then serving on a committee of the board of directors or a subcommittee of a committee shall constitute a quorum for the transaction of business by the committee or subcommittee unless the articles of incorporation, the bylaws, a resolution of the board of directors or a resolution of a committee that created the subcommittee requires a greater or lesser number, except that in no case shall a quorum be less than $\frac{1}{3}$ of the directors then serving on the committee or subcom-*

mittee. The vote of a majority of the members of a committee or subcommittee present at a meeting at which a quorum is present shall be the act of the committee or subcommittee unless the articles of incorporation, the bylaws, a resolution of the board of directors or a resolution of a committee that created the subcommittee requires a greater number.

(d) The directors of any corporation organized under this code may be divided into one, two or three classes by the articles of incorporation or by an initial bylaw, or by a bylaw adopted by a vote of the stockholders; the term of office of those of the first class to expire at the first annual meeting held after such classification becomes effective; of the second class one year thereafter; of the third class two years thereafter; and at each annual election held after such classification becomes effective, directors shall be chosen for a full term, as the case may be, to succeed those whose terms expire. The articles of incorporation or bylaw provision dividing the directors into classes may authorize the board of directors to assign members of the board already in office to such classes at the time such classification becomes effective. The articles of incorporation may confer upon holders of any class or series of stock the right to elect one or more directors who shall serve for such term, and have such voting powers as shall be stated in the articles of incorporation. The terms of office and voting powers of the directors elected separately by the holders of any class or series of stock may be greater than or less than those of any other director or class of directors. In addition, the articles of incorporation may confer upon one or more directors, whether or not elected separately by the holders of any class or series of stock, voting powers greater than or less than those of other directors. Any such provision conferring greater or lesser voting power shall apply to voting in any committee or subcommittee, unless otherwise provided in the articles of incorporation or bylaws. If the articles of incorporation provide that one or more directors shall have more or less than one vote per director on any matter, every reference in this code to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

(e) A member of the board of directors, or a member of any committee designated by the board of directors, shall, in the performance of such member's duties, be fully protected in relying in good faith upon the records of the corporation and upon such information, opinions, reports or statements presented to the corporation by any of the corporation's officers or employees, or committees of the board of directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the corporation.

(f) (1) Unless otherwise restricted by the articles of incorporation or bylaws;

(A) Any action required or permitted to be taken at any meeting of the board of directors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing or by electronic transmission, ~~and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form; and~~

(B) *a consent may be documented, signed and delivered in any manner permitted by section 1, and amendments thereto.*

(2) Any person, whether or not then a director, may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time, including a time determined upon the happening of an event, no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this subsection at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to ~~its becoming effective~~ *such effective time. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of the proceedings of the board of directors, or the committee thereof, in the same paper or electronic form as the minutes are maintained.*

(g) Unless otherwise restricted by the articles of incorporation or bylaws, the board of directors of any corporation organized under this code may hold its meetings, and have an office or offices, outside of this state.

(h) Unless otherwise restricted by the articles of incorporation or bylaws, the board of directors shall have the authority to fix the compensation of directors.

(i) Unless otherwise restricted by the articles of incorporation or bylaws, members of the board of directors of any corporation, or any committee designated by the board, may participate in a meeting of such board, or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

(j) The articles of incorporation of any nonstock corporation may provide that less than $\frac{1}{3}$ of the members of the governing body may constitute a quorum thereof and may otherwise provide that the business and affairs of the corporation shall be managed in a manner different from that provided in this section. Except as may be otherwise provided by the articles of incorporation, this section shall apply to such a corporation, and when so applied, all references to:

(1) The board of directors, to members thereof and to stockholders shall be deemed to refer to the governing body of the corporation, the members thereof and the members of the corporation, respectively; and

(2) stock, capital stock or shares thereof shall be deemed to refer to memberships of a nonprofit nonstock corporation and to membership interests of any other nonstock corporation.

(k) (1) Any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors, except as follows:

~~(1)~~(A) Unless the articles of incorporation otherwise provides, in the case of a corporation whose board is classified as provided in subsection (d), stockholders may effect such removal only for cause; or

~~(2)~~(B) in the case of a corporation having cumulative voting, if less than the entire board is to be removed, no director may be removed without cause if the votes cast against such director's removal would be sufficient to elect such director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part.

(2) Whenever the holders of any class or series are entitled to elect one or more directors by the articles of incorporation, this subsection shall apply, in respect to the removal without cause of a director or directors so elected, to the vote of the holders of the outstanding shares of that class or series and not to the vote of the outstanding shares as a whole.

Sec. 13. K.S.A. 2022 Supp. 17-6305 is hereby amended to read as follows: 17-6305. (a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorney fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner ~~which~~ that the person reasonably believed to be in or not opposed to the best interests

of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorney fees, actually and reasonably incurred by the person in connection with the defense and settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the district court or the court ~~in which~~ *where* such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses ~~which~~ *that* the district court or such other court shall deem proper.

(c) (1) To the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses, including attorney fees, actually and reasonably incurred by such person in connection ~~therewith~~ *with such defense*. *For indemnification with respect to any act or omission occurring after June 30, 2023, references to "officer" for purposes of this subsection shall mean only an officer of the corporation who:*

(A) *Is or was the president, chief executive officer, chief operating officer, chief financial officer, chief legal officer, controller, treasurer or chief accounting officer of the corporation; or*

(B) *is or was identified in the corporation's public filings with the United States securities and exchange commission because such person is or was one of the most highly compensated executive officers of the corporation.*

(2) *The corporation may indemnify any other person who is not a present or former director or officer of the corporation against expenses, including attorney fees, actually and reasonably incurred by such person to the extent such person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) or in defense of any claim, issue or matter therein.*

(d) Any indemnification under subsections (a) and (b), unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made, with respect to a person who is a director or officer of the corporation at the time of such determination:

(1) By a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum;

(2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum;

(3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion; or

(4) by the stockholders.

(e) Expenses, including attorney fees, incurred by an officer or director of the corporation in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in this section. Such expenses, including attorney fees, incurred by former directors and officers or other employees and agents of the corporation or by persons serving at the request of the corporation as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the corporation deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. A right to indemnification or to advancement of expenses arising under a provision of the articles of incorporation or a bylaw shall not be eliminated or impaired by an amendment to *or repeal or elimination of* the articles of incorporation or ~~the~~ bylaws after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought; unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under this section.

(h) For purposes of this section, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation, including any constituent of a constituent, absorbed in a consolidation or merger ~~which~~ *that*, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this section with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

(i) For purposes of this section, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation ~~which~~ *that* imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this section.

(j) The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(k) The district court is hereby vested with jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this section or under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. The district court may

summarily determine a corporation's obligation to advance expenses, including attorney fees.

Sec. 14. K.S.A. 2022 Supp. 17-6401 is hereby amended to read as follows: 17-6401. (a) Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the articles of incorporation or of any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation. Any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any such class or series of stock may be made dependent upon facts ascertainable outside the articles of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation, ~~provided that~~ if the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such class or series of stock is clearly and expressly set forth in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. ~~The term~~ "Facts," as used in this subsection, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. The power to increase or decrease or otherwise adjust the capital stock as provided in this code shall apply to all or any such classes of stock.

(b) (1) Any stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event. Immediately following any such redemption the corporation shall have outstanding one or more shares of one or more classes or series of stock, ~~which and such~~ share, or shares together, shall have full voting powers. Notwithstanding ~~the foregoing such~~ limitation:

(1)(A) Any stock of a regulated investment company registered under the investment company act of 1940, 15 U.S.C. §§ 80a-1 et seq., ~~and amendments thereto,~~ may be made subject to redemption by the corporation at its option or at the option of the holders of such stock; and

(2)(B) any stock of a corporation ~~which~~ that holds directly or indirectly a license or franchise from a governmental agency to conduct its business or is a member of a national securities exchange, ~~which and such~~ license,

franchise or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it.

(2) Any stock ~~which~~ *that* may be made redeemable under this section may be redeemed for cash, property or rights, including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to subsection (a).

(c) The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, on such conditions and at such times as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors ~~as hereinabove provided in this section,~~ payable in preference to, or in such relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which such stocks are entitled, shall have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends ~~as elsewhere provided in this code provided.~~

(d) The holders of the preferred or special stock of any class or of any series thereof shall be entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the corporation as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors.

(e) At the option of either the holder or the corporation or upon the happening of a specified event, any stock of any class or of any series thereof may be made convertible into or exchangeable for shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation, at such price or prices or at such rate or rates of exchange and with such adjustments as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors.

(f) If any corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights shall be set forth in full or summarized on the face or back of the certificate ~~which~~ *that* the corporation shall issue to represent certificated shares of such class or series of

stock. Except as otherwise provided in K.S.A. 17-6426, and amendments thereto, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate ~~which~~ *that* the corporation issues to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights, or both. Within a reasonable time after the issuance or transfer of uncertificated stock, ~~the corporation shall send to the registered owner thereof~~ *shall be given a written notice, in writing or by electronic transmission,* containing the information required to be set forth or stated on certificates pursuant to this section or K.S.A. 17-6406, ~~K.S.A. 17-6426(a) or K.S.A., 17-6508(a) or 17-72a04,~~ and amendments thereto, or with respect to this section a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights, or both. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

(g) When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, shall not have been set forth in the articles of incorporation or in any amendment thereto, but shall be provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation or any amendment thereto, a certificate of designations setting forth a copy of such resolution or resolutions and the number of shares of stock of such class or series shall be executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, and shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto. Unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such series to which such resolution or resolutions apply may be increased, but not above the total number of authorized shares of the class, or decreased, but not below the number of shares thereof then outstanding, by a certificate likewise executed and filed setting forth a statement that a specified increase or decrease had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of such

shares shall be decreased, the number of shares specified in the certificate shall resume the status ~~which~~ *that* they had prior to the adoption of the first resolution or resolutions. When no shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of such class or series are outstanding and that none will be issued, subject to the certificate of designations previously filed with respect to such class or series, may be executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, and filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto. When such certificate becomes effective, it shall have the effect of eliminating from the articles of incorporation all matters set forth in the certificate of designations with respect to such class or series of stock. Unless otherwise provided in the articles of incorporation, if no shares of stock have been issued of a class or series of stock established by a resolution of the board of directors, the voting powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, may be amended by a resolution or resolutions adopted by the board of directors. A certificate ~~which:~~ *(1) that* states that no shares of the class or series have been issued; *(2)*, sets forth a copy of the resolution or resolutions; and ~~(3)~~, if the designation of the class or series is being changed, indicates the original designation and the new designation shall be executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, and shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto. When any certificate filed under this subsection becomes effective, it shall have the effect of amending the articles of incorporation, except that neither the filing of such certificate nor the filing of restated articles of incorporation pursuant to K.S.A. 17-6605, and amendments thereto, shall prohibit the board of directors from subsequently adopting such resolutions as authorized by this subsection.

Sec. 15. K.S.A. 2022 Supp. 17-6408 is hereby amended to read as follows: 17-6408. The shares of a corporation shall be represented by certificates, except that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of, the corporation by ~~the chairperson or vice chairperson of the board of directors, or the president or vice president, and by the treasurer or an assistant trea-~~

~~suror, or the secretary or assistant secretary of such~~ *any two authorized officers of the corporation* representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In the event that any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the corporation with the same effect as if the person were such officer, transfer agent or registrar at the date of issue. A corporation shall not have power to issue a certificate in bearer form.

Sec. 16. K.S.A. 2022 Supp. 17-6410 is hereby amended to read as follows: 17-6410. (a) Every corporation may purchase, redeem, receive, take or otherwise acquire, own and hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own shares; ~~provided, however, that~~. No corporation shall:

(1) Purchase or redeem its own shares of capital stock for cash or other property when the capital of the corporation is impaired or when such purchase or redemption would cause any impairment of the capital of the corporation, except that a corporation other than a nonstock corporation may purchase or redeem out of capital any of its own shares ~~which~~ *that* are entitled upon any distribution of its assets, whether by dividend or in liquidation, to a preference over another class or series of its stock, or, if no shares entitled to such a preference are outstanding, any of its own shares, if such shares will be retired upon their acquisition and the capital of the corporation reduced in accordance with K.S.A. 17-6603 and 17-6604, and amendments thereto. Nothing in this subsection shall invalidate or otherwise affect a note, debenture or other obligation of a corporation given by it as consideration for its acquisition by purchase, redemption or exchange of its shares of stock if at the time such note, debenture or obligation was delivered by the corporation its capital was not then impaired or did not thereby become impaired;

(2) purchase, for more than the price at which they may then be redeemed, any of its shares ~~which~~ *that* are redeemable at the option of the corporation; or

(3) (A) in the case of a corporation other than a nonstock corporation, redeem any of its shares unless their redemption is authorized by K.S.A. 17-6401(b), and amendments thereto, and then only in accordance with such section and the articles of incorporation; or

(B) in the case of a nonstock corporation, redeem any of its membership interests, unless their redemption is authorized by the articles of incorporation and then only in accordance with the articles of incorporation.

(b) Nothing in this section limits or affects a corporation's right to resell any of its shares ~~thereof~~ *previously* purchased or redeemed out

of surplus and ~~which that~~ have not been retired, for such consideration as shall be fixed by the board of directors.

(c) (1) Shares of ~~its own~~ a corporation's capital stock ~~belonging to~~ shall neither be entitled to vote nor be counted for quorum purposes if such shares belong to:

(A) The corporation ~~or to~~;

(B) another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the corporation, ~~shall neither be entitled to vote nor be counted for quorum purposes; or~~

(C) *any other entity, if a majority of the voting power of such other entity is held, directly or indirectly, by the corporation or if such other entity is otherwise controlled, directly or indirectly, by the corporation.*

(2) Nothing in this section shall be construed as limiting the right of any corporation to vote stock, including, but not limited to, its own stock, held by it in a fiduciary capacity.

(d) Shares ~~which that~~ have been called for redemption shall not be deemed to be outstanding shares for the purpose of voting or determining the total number of shares entitled to vote on any matter on and after the date ~~on which written~~ when notice of redemption has been sent to holders thereof and a sum sufficient to redeem such shares has been irrevocably deposited or set aside to pay the redemption price to the holders of the shares upon surrender of certificates therefor.

Sec. 17. K.S.A. 2022 Supp. 17-6413 is hereby amended to read as follows: 17-6413. The capital stock of a corporation shall be paid for in such amounts and at such times as the directors may require. From time to time, the directors may demand payment, in respect of each share of stock not fully paid, of such sum of money as the necessities of the business may require, in the judgment of the board of directors, not exceeding in the whole the balance remaining unpaid on said stock, and such sum so demanded shall be paid to the corporation at such times and by such installments as the directors shall direct. The directors shall ~~give written~~ notice of the time and place of such payments to each holder of or subscriber for stock ~~which that~~ is not fully paid at such holder's or subscriber's last known ~~post office~~ postal address, ~~which and such~~ notice shall be ~~mailed~~ given at least 30 days before the time for such payment.

Sec. 18. K.S.A. 2022 Supp. 17-6426 is hereby amended to read as follows: 17-6426. (a) A written restriction or restrictions on the transfer or registration of transfer of a security of a corporation, or on the amount of the corporation's securities that may be owned by any person or group of persons, if permitted by this section and noted conspicuously on the certificate or certificates representing the security or securities so restricted, or, in the case of uncertificated shares, contained in the notice or notices

~~sent~~ given pursuant to K.S.A. 17-6401(f), and amendments thereto, may be enforced against the holder of the restricted security or securities or any successor or transferee of the holder, including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the certificate or certificates representing the security or securities so restricted, or, in the case of uncertificated shares, contained in the notice or notices ~~sent~~ given pursuant to K.S.A. 17-6401(f), and amendments thereto, a restriction, even though permitted by this section, is ineffective except against a person with actual knowledge of the restriction.

(b) A restriction on the transfer or registration of transfer of securities of a corporation, or on the amount of a corporation's securities that may be owned by any person or group of persons, may be imposed by the articles of incorporation or by the bylaws or by an agreement among any number of security holders or among such holders and the corporation. No restriction so imposed shall be binding with respect to securities issued prior to the adoption of the restriction unless the holders of the securities are parties to an agreement or voted in favor of the restriction.

(c) A restriction on the transfer or registration of transfer of securities of a corporation or on the amount of such securities that may be owned by any person or group of persons is permitted by this section if it:

(1) Obligates the holder of the restricted securities to offer to the corporation or to any other holders of securities of the corporation or to any other person or to any combination ~~of the foregoing thereof~~, a prior opportunity, to be exercised within a reasonable time, to acquire the restricted securities;

(2) obligates the corporation or any holder of securities of the corporation or any other person or any combination ~~of the foregoing thereof~~, to purchase the securities ~~which~~ *that* are the subject of an agreement respecting the purchase and sale of the restricted securities;

(3) requires the corporation or the holders of any class or series of securities of the corporation to consent to any proposed transfer of the restricted securities or to approve the proposed transferee of the restricted securities, or to approve the amount of securities of the corporation that may be owned by any person or group of persons;

(4) obligates the holder of the restricted securities to sell or transfer an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination ~~of the foregoing thereof~~, or causes or results in the automatic sale or transfer of an amount of restricted securities to the corporation or to any other holders of securities of the corporation or to any other person or to any combination ~~of the foregoing thereof~~; or

(5) prohibits or restricts the transfer of the restricted securities to, or the ownership of restricted securities by, designated persons or classes of persons or groups of persons, and such designation is not manifestly unreasonable.

(d) Any restriction on the transfer or the registration of transfer of the securities of a corporation, or on the amount of securities of a corporation that may be owned by a person or group of persons, for any of the following purposes shall be conclusively presumed to be for a reasonable purpose:

(1) Maintaining any local, state, federal or foreign tax advantage to the corporation or its stockholders, including without limitation:

(A) Maintaining the corporation's status as an electing small business corporation under subchapter S of the United States internal revenue code, 26 U.S.C. § 1371 et seq.;

(B) maintaining or preserving any tax attribute, including without limitation net operating losses; or

(C) qualifying or maintaining the qualification of the corporation as a real estate investment trust pursuant to the United States internal revenue code or regulations adopted pursuant to the United States internal revenue code; or

(2) maintaining any statutory or regulatory advantage or complying with any statutory or regulatory requirements under applicable local, state, federal or foreign law.

(e) Any other lawful restriction on transfer or registration of transfer of securities, or on the amount of securities that may be owned by any person or group of persons, is permitted by this section.

Sec. 19. K.S.A. 2022 Supp. 17-6427 is hereby amended to read as follows: 17-6427. (a) Notwithstanding any other provisions of this chapter, a corporation shall not engage in any business combination with any interested stockholder for a period of three years following the time that such stockholder became an interested stockholder, unless:

(1) Prior to such time the board of directors of the corporation approved either the business combination or the transaction ~~which~~ that resulted in the stockholder becoming an interested stockholder;

(2) upon consummation of the transaction ~~which~~ that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding, but not the outstanding voting stock owned by the interested stockholder, those shares owned:

(A) By persons who are directors and also officers; and

(B) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

(3) at or subsequent to such time the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 $\frac{2}{3}$ % of the outstanding voting stock ~~which~~ *that* is not owned by the interested stockholder.

(b) The restrictions contained in this section shall not apply if:

(1) The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section or the Kansas business combinations with interested shareholders act;

(2) the corporation, by action of its board of directors, adopts an amendment to its bylaws on or before July 1, 1990, expressly electing not to be governed by this section or the Kansas business combinations with interested shareholders act, which amendment shall not be further amended by the board of directors;

(3) the corporation, by action of its stockholders, adopts an amendment to its articles of incorporation or bylaws expressly electing not to be governed by this section, except that, in addition to any other vote required by law, such amendment to the articles of incorporation or bylaws must be ~~approved~~ *adopted* by the affirmative vote of a majority of the ~~shares outstanding stock~~ *entitled to vote thereon*.

(A) ~~An amendment adopted pursuant to this paragraph shall be effective immediately. In the case of a corporation that both: (A) has never had a class of voting stock that falls within any of the two categories set out in subsection (b)(4); and (B) has not elected by a provision in its original articles of incorporation, or any amendment thereto, to be governed by this section, such amendment shall become effective upon:~~

(i) *In the case of an amendment to the articles of incorporation, the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto; or*

(ii) *in the case of an amendment to the bylaws, the date of adoption of such amendment.*

(B) (i) ~~In all other cases, an amendment adopted pursuant to this paragraph shall not be effective until 12 months after become effective:~~

(a) *In the case of an amendment to the articles of incorporation, 12 months after the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto; or*

(b) *in the case of an amendment to the bylaws, 12 months after the date of the adoption of such amendment; and*

(ii) *in either case, the election not to be governed by this section shall not apply to any business combination between such corporation and any person who became an interested stockholder of such corporation on or prior to such adoption before:*

(a) *In the case of an amendment to the articles of incorporation, the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto; or*

(b) *in the case of an amendment to the bylaws, the date of the adoption of such amendment.*

(C) A bylaw amendment adopted pursuant to this paragraph shall not be further amended by the board of directors;

(4) the corporation does not have a class of voting stock that is:

(A) Listed on a national securities exchange; or

(B) held of record by more than 2,000 stockholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested stockholder or from a transaction in which a person becomes an interested stockholder;

(5) a stockholder becomes an interested stockholder inadvertently and:

(A) As soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an interested stockholder; and

(B) would not, at any time within the three-year period immediately prior to a business combination between the corporation and such stockholder, have been an interested stockholder but for the inadvertent acquisition of ownership;

(6) (A) the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required by this subsection of a proposed transaction ~~which that~~:

(i) Constitutes one of the transactions described in ~~the second sentence of this paragraph~~ subparagraph (B);

(ii) is with or by a person who either was not an interested stockholder during the previous three years or who became an interested stockholder with the approval of the corporation's board of directors or during the period described in paragraph (7); and

(iii) is approved or not opposed by a majority of the members of the board of directors then in office, but not less than one, who were directors prior to any person becoming an interested stockholder during the previous three years or were recommended for election or elected to succeed such directors by a majority of such directors.

(B) The proposed transactions referred to in subsection (b)(6)(A) are limited to:

(i) A merger or consolidation of the corporation, except for a merger in respect of which, pursuant to K.S.A. 17-6701(f), and amendments thereto, no vote of the stockholders of the corporation is required;

(ii) a sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or

indirect majority-owned subsidiary of the corporation, other than to any direct or indirect wholly-owned subsidiary or to the corporation, having an aggregate market value equal to 50% or more of either that aggregate market value of all of the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation; or

(iii) a proposed tender or exchange offer for 50% or more of the outstanding voting stock of the corporation. The corporation shall give not less than 20 days' notice to all interested stockholders prior to the consummation of any of the transactions described in subparagraph (B) (i) or (ii); or

(7) the business combination is with an interested stockholder who became an interested stockholder at a time when the restrictions contained in this section did not apply by reason of any of subsections (b)(1) through (b)(4), except that this paragraph shall not apply if, at the time such interested stockholder became an interested stockholder, the corporation's articles of incorporation contained a provision authorized by the last sentence of this subsection.

Notwithstanding subsections (b)(1) through (b)(4), a corporation may elect by a provision of its original articles of incorporation, or any amendment thereto, to be governed by this section, except that any such amendment to the articles of incorporation shall not apply to restrict a business combination between the corporation and an interested stockholder of the corporation if the interested stockholder became such prior to the effective date of the amendment *the interested stockholder before the date and time when the filed amendment shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto.*

(c) As used in this section only:

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

(2) "Associate," when used to indicate a relationship with any person, means:

(A) Any corporation, partnership, unincorporated association or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of 20% or more of any class of voting stock;

(B) any trust or other estate in which such person has at least a 20% beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and

(C) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

(3) "Business combination," when used in reference to any corporation and any interested stockholder of such corporation, means:

(A) Any merger or consolidation of the corporation or any direct or indirect majority-owned subsidiary of the corporation with:

- (i) The interested stockholder; or
- (ii) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the interested stockholder and as a result of such merger or consolidation subsection (a) is not applicable to the surviving entity;

(B) any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, except proportionately as a stockholder of such corporation, to or with the interested stockholder, whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation ~~which assets~~ *that* have an aggregate market value equal to 10% or more of either the aggregate market value of all the assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation;

(C) any transaction ~~which~~ *that* results in the issuance or transfer by the corporation or by any direct or indirect majority-owned subsidiary of the corporation of any stock of the corporation or of such subsidiary to the interested stockholder, except:

(i) Pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary ~~which securities~~ *that* were outstanding prior to the time that the interested stockholder became ~~such~~ *the interested stockholder*;

(ii) pursuant to a merger under K.S.A. 17-6701(g), and amendments thereto;

(iii) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into stock of such corporation or any such subsidiary ~~which security~~ *that* is distributed, pro rata to all holders of a class or series of stock of such corporation subsequent to the time the interested stockholder became ~~such~~ *the interested stockholder*;

(iv) pursuant to an exchange offer by the corporation to purchase stock made on the same terms to all holders of such stock; or

(v) any issuance or transfer of stock by the corporation; ~~provided however, except~~ that in no case under subparagraph (C)(iii) through (v) shall there be an increase in the interested stockholder's proportionate share of the stock of any class or series of the corporation or of the voting stock of the corporation;

(D) any transaction involving the corporation or any direct or indirect majority-owned subsidiary of the corporation ~~which~~ *that* has the effect, directly or indirectly, of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or

series, of the corporation or of any such subsidiary ~~which~~ *that* is owned by the interested stockholder, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares of stock not caused, directly or indirectly, by the interested stockholder; or

(E) any receipt by the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of such corporation, of any loans, advances, guarantees, pledges or other financial benefits, other than those expressly permitted in subparagraphs (A) through (D), provided by or through the corporation or any direct or indirect majority-owned subsidiary.

(4) “Control,” including the terms “controlling,” “controlled by” and “under common control with,” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, by contract or otherwise. A person who is the owner of 20% or more of the outstanding voting stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary, except that a presumption of control shall not apply where such person holds voting stock, in good faith and not for the purpose of circumventing this section, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control of such entity.

(5) (A) “Interested stockholder” means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that:

(i) Is the owner of 15% or more of the outstanding voting stock of the corporation; or

(ii) is an affiliate or associate of the corporation and was the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date ~~on which~~ *when* it is sought to be determined whether such person is an interested stockholder, and the affiliates and associates of such person.

(B) ~~The term~~ “Interested stockholder” ~~shall~~ *does* not include:

(i) Any person who:

(a) Owned shares in excess of the 15% limitation set forth ~~herein in this paragraph~~ as of, or acquired such shares pursuant to a tender offer commenced prior to July 1, 1989, or pursuant to an exchange offer announced prior to such date and commenced within 90 days thereafter and either:

(1) Continued to own shares in excess of such 15% limitation or would have but for action by the corporation; or

(2) is an affiliate or associate of the corporation and so continued, or so would have continued but for action by the corporation, to be the owner of 15% or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date ~~on~~ ~~which~~ *when* it is sought to be determined whether such a person is an interested stockholder; or

(b) acquired such shares from a person described in subparagraph (B) (i)(a) by gift, inheritance or in a transaction in which no consideration was exchanged; or

(ii) any person whose ownership of shares in excess of the 15% limitation set forth ~~herein in this paragraph~~ is the result of action taken solely by the corporation; ~~provided,~~ *except* that such person shall be an interested stockholder if thereafter such person acquires additional shares of voting stock of the corporation, except as a result of further corporate action not caused, directly or indirectly, by such person.

(C) For the purpose of determining whether a person is an interested stockholder, the voting stock of the corporation deemed to be outstanding shall include stock deemed to be owned by the person through application of paragraph (9), but shall not include any other unissued stock of such corporation ~~which~~ *that* may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

(6) “Person” means any individual, corporation, partnership, unincorporated association or other entity.

(7) “Stock” means, with respect to any corporation, capital stock and, with respect to any other entity, any equity interest.

(8) “Voting stock” means, with respect to any corporation, stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity. Every reference to a percentage of voting stock shall refer to such percentage of the votes of such voting stock.

(9) “Owner,” including the terms “own” and “owned,” when used with respect to any stock, means a person that individually or with or through any of its affiliates or associates:

(A) Beneficially owns such stock, directly or indirectly;

(B) has: (i) The right to acquire such stock, whether such right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise, except that a person shall not be deemed the owner of stock tendered pursuant to a tender or exchange offer made by such person or any of such person’s affiliates or associates until such tendered stock is accepted for purchase

or exchange; or (ii) the right to vote such stock pursuant to any agreement, arrangement or understanding, except that a person shall not be deemed the owner of any stock because of such person's right to vote such stock if the agreement, arrangement or understanding to vote such stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(C) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting, except voting pursuant to a revocable proxy or consent as described in subparagraph (B)(ii), or disposing of such stock with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such stock.

(d) No provision of an articles of incorporation or bylaw shall require, for any vote of stockholders required by this section, a greater vote of stockholders than that specified in this section.

(e) This section amends and recodifies the Kansas business combinations with interested shareholders act. Any reference in a corporation's articles of incorporation or bylaws to the Kansas business combinations with interested shareholders act shall be deemed to refer to this section.

~~(f) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 20. K.S.A. 2022 Supp. 17-6428 is hereby amended to read as follows: 17-6428. (a) Subject to subsection (f), no defective corporate act or putative stock shall be void or voidable solely as a result of a failure of authorization if ratified as provided in this section or validated by the district court in a proceeding brought under K.S.A. 2022 Supp. 17-6429, and amendments thereto.

(b) (1) In order to ratify one or more defective corporate acts pursuant to this section, other than the ratification of an election of the initial board of directors pursuant to ~~subsection (b)(2)~~ *paragraph (3)*, the board of directors of the corporation shall adopt resolutions stating:

- (A) The defective corporate act or acts to be ratified;
- (B) the date of each defective corporate act or acts;
- (C) if such defective corporate act or acts involved the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates ~~upon which~~ *when* such putative shares were purported to have been issued;
- (D) the nature of the failure of authorization in respect of each defective corporate act to be ratified; and
- (E) that the board of directors approves the ratification of the defective corporate act or acts.

(2) Such resolutions may also provide that, at any time before the validation effective time in respect to any defective corporate act set forth ~~therein~~ *in such resolution*, notwithstanding the approval of the ratification

of such defective corporate act by stockholders, the board of directors may abandon the ratification of such defective corporate act without further action of the stockholders. The quorum and voting requirements applicable to the ratification by the board of directors of any defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified at the time the board adopts the resolutions ratifying the defective corporate act, except that if the articles of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of the Kansas general corporation ~~code~~ *this code*, in each case as in effect as of the time of the defective corporate act, would have required a larger number or portion of directors or of specified directors for a quorum to be present or to approve the defective corporate act, such larger number or portion of such directors or such specified directors shall be required for a quorum to be present or to adopt the resolutions to ratify the defective corporate act, as applicable, except that the presence or approval of any director elected, appointed or nominated by holders of any class or series of which no shares are then outstanding, or by any person that is no longer a stockholder, shall not be required.

~~(2)~~(3) In order to ratify a defective corporate act in respect of the election of the initial board of directors of the corporation pursuant to K.S.A. 17-6008, and amendments thereto, a majority of the persons who, at the time the resolutions required by this paragraph are adopted, are exercising the powers of directors under claim and color of an election or appointment as such may adopt resolutions stating:

(A) The name of the person or persons who first took action in the name of the corporation as the initial board of directors of the corporation;

(B) the earlier of the date ~~on which~~ *when* such persons first took such action or were purported to have been elected as the initial board of directors; and

(C) that the ratification of the election of such person or persons as the initial board of directors is approved.

(c) Each defective corporate act ratified pursuant to subsection (b)(1) shall be submitted to stockholders for approval as provided in subsection (d), unless:

(1) (A) No other provision of ~~the Kansas general corporation code~~ *this code*, and no provision of the articles of incorporation or bylaws of the corporation, or of any plan or agreement to which the corporation is a party, would have required stockholder approval of such defective corporate act to be ratified, either at the time of such defective corporate act or at the time the board of directors adopts the resolutions ratifying such defective corporate act pursuant to subsection (b)(1); and

~~(2)~~(B) such defective corporate act did not result from a failure to comply with K.S.A. 2022 Supp. 17-6427, and amendments thereto; *or*

(2) *only with respect to defective corporate acts ratified or to be ratified pursuant to resolutions adopted by a board of directors on or after July 1, 2023, as of the record date for determining the stockholders entitled to vote on the ratification of such defective corporate act, there are no shares of valid stock outstanding and entitled to vote thereon, regardless of whether there then exists any shares of putative stock.*

(d) (1) If the ratification of a defective corporate act is required to be submitted to stockholders for approval pursuant to subsection (c), due notice of the time, place, if any, and purpose of the meeting shall be given at least 20 days before the date of the meeting to each holder of valid stock and putative stock, whether voting or nonvoting, at the *postal* address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice also shall be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, *or, in the case of any defective corporate act that involved the establishment of a record date for notice of or voting at any meeting of stockholders, for action by consent of stockholders in lieu of a meeting, or for any other purpose, the record date for notice of or voting at such meeting, the record date for action by consent or the record date for such other action, as the case may be,* other than holders whose identities or *postal* addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted by the board of directors pursuant to subsection (b) (1) or the information required by subsection (b)(1)(A) through (E) and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within 120 days from the applicable validation effective time. At such meeting, the quorum and voting requirements applicable to the ratification of such defective corporate act shall be the quorum and voting requirements applicable to the type of defective corporate act proposed to be ratified at the time of the approval of the ratification, except that:

~~(1)(A)~~ (A) If the articles of incorporation or bylaws of the corporation, any plan or agreement to which the corporation was a party or any provision of the ~~Kansas general corporation~~ *this code* in effect as of the time of the defective corporate act would have required a larger number or portion of stock or of any class or series thereof or of specified stockholders for a quorum to be present or to approve the defective corporate act, the presence or approval of such larger number or portion of stock or of such class or series thereof or of such specified stockholders shall be required for a quorum to be present or to approve the ratification of the defective

corporate act, as applicable, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a stockholder, shall not be required;

(2)(B) the approval by stockholders of the ratification of the election of a director shall require the affirmative vote of the majority of shares present at the meeting and entitled to vote on the election of such director, except that if the articles of incorporation or bylaws of the corporation then in effect or in effect at the time of the defective election require or required a larger number or portion of stock or of any class or series thereof or of specified stockholders to elect such director, the affirmative vote of such larger number or portion of stock or of any class or series thereof or of such specified stockholders shall be required to ratify the election of such director, except that the presence or approval of shares of any class or series of which no shares are then outstanding, or of any person that is no longer a stockholder, shall not be required; and

(3)(C) in the event of a failure of authorization resulting from failure to comply with the provisions of K.S.A. 2022 Supp. 17-6427, and amendments thereto, the ratification of the defective corporate act shall require the vote set forth in K.S.A. 2022 Supp. 17-6427(a)(3), and amendments thereto, regardless of whether such vote would have otherwise been required.

(2) Shares of putative stock on the record date for determining stockholders entitled to vote on any matter submitted to stockholders pursuant to subsection (c), and without giving effect to any ratification that becomes effective after such record date, shall neither be entitled to vote nor counted for quorum purposes in any vote to ratify any defective corporate act.

(e) If a defective corporate act ratified pursuant to this section would have required under any other section of the ~~Kansas general corporation this code~~ the filing of a document in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, then, whether or not a document was previously filed in respect to such defective corporate act and in lieu of filing the document otherwise required by provisions of the ~~Kansas general corporation this code~~, the corporation shall file a certificate of validation with respect to such defective corporate act in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto. A separate certificate of validation shall be required for each defective corporate act requiring the filing of a certificate of validation under this section, except that two or more defective corporate acts may be included in a single certificate of validation if the corporation filed, or to comply with provisions of the ~~Kansas general corporation this code~~, would have filed, a single document under another provision of the ~~Kansas general corporation this code~~ to effect such acts, and two or more overissues of shares of any class, classes or series of stock may be included in a single certificate of validation,

~~provided~~ *except* that the increase in the number of authorized shares of each such class or series set forth in the certificate of validation shall be effective as of the date of the first such overissue. The certificate of validation shall set forth:

(1) Each defective corporate act that is the subject of the certificate of validation, including, in the case of any defective corporate act involving the issuance of shares of putative stock, the number and type of shares of putative stock issued and the date or dates ~~upon which~~ *when* such putative shares were purported to have been issued, the date of such defective corporate act, and the nature of the failure of authorization in respect to such defective corporate act;

(2) a statement that such defective corporate act was ratified in accordance with this section, including the date ~~on which~~ *when* the board of directors ratified such defective corporate act and the date, if any, ~~on which~~ *when* the stockholders approved the ratification of such defective corporate act; and

(3) the information required by one of the following subparagraphs:

(A) If a document was previously filed under K.S.A. 2022 Supp. 17-7910, and amendments thereto, in respect to such defective corporate act and no changes to such document are required to give effect to such defective corporate act in accordance with this section, the certificate of validation shall set forth:

(i) The name, title and filing date of the document previously filed and of any certificate of correction thereto; and

(ii) a statement that a copy of the document previously filed, together with any certificate of correction thereto, is attached as an exhibit to the certificate of validation;

(B) if a document was previously filed under K.S.A. 2022 Supp. 17-7910, and amendments thereto, in respect to the defective corporate act and such document requires any change to give effect to the defective corporate act in accordance with this section, including a change to the date and time of the effectiveness of such certificate, the certificate of validation shall set forth:

(i) The name, title and filing date of the document so previously filed and of any certificate of correction thereto;

(ii) a statement that a document containing all of the information required to be included under the applicable section or sections of ~~the Kansas general corporation~~ *this code* to give effect to the defective corporate act is attached as an exhibit to the certificate of validation; and

(iii) the date that such certificate shall be deemed to have become effective pursuant to this section; or

(C) if a document was not previously filed under K.S.A. 2022 Supp. 17-7910, and amendments thereto, in respect to the defective corporate

act and the defective corporate act ratified pursuant to this section would have required under any other section of ~~the Kansas general corporation~~ *this* code the filing of a document in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto, the certificate of validation shall set forth:

(i) A statement that a document containing all of the information required to be included under the applicable section or sections of ~~the Kansas general corporation~~ *this* code to give effect to the defective corporate act is attached as an exhibit to the certificate of validation; and

(ii) the date and time that such certificate shall be deemed to have become effective pursuant to this section.

(4) A document attached to a certificate of validation pursuant to paragraph (3)(B) or (C) need not be separately executed and acknowledged and need not include any statement required by any other section of ~~the Kansas general corporation~~ *this* code that such document has been approved and adopted in accordance with the provisions of such other section.

(f) From and after the validation effective time, unless otherwise determined in an action brought pursuant to K.S.A. 2022 Supp. 17-6429, and amendments thereto:

(1) Subject to the last sentence of subsection (d), each defective corporate act ratified in accordance with this section shall no longer be deemed void or voidable as a result of a the failure of authorization described in the resolutions adopted pursuant to subsection (b) and such effect shall be retroactive to the time of the defective corporate act; and

(2) subject to the last sentence of subsection (d), each share or fraction of a share of putative stock issued or purportedly issued pursuant to any such defective corporate act shall no longer be deemed void or voidable and shall be deemed to be an identical share or fraction of a share of outstanding stock as of the time it was purportedly issued.

(g) (1) In respect of each defective corporate act ratified by the board of directors pursuant to subsection (b), prompt notice of the ratification shall be given to all holders of valid stock and putative stock, whether voting or nonvoting, as of the date the board of directors adopts the resolutions approving such defective corporate act, or as of a date within 60 days after such date of adoption, as established by the board of directors, at the *postal* address of such holder as it appears or most recently appeared, as appropriate, on the records of the corporation. The notice also shall be given to the holders of record of valid stock and putative stock, whether voting or nonvoting, as of the time of the defective corporate act, other than holders whose identities or *postal* addresses cannot be determined from the records of the corporation. The notice shall contain a copy of the resolutions adopted pursuant to subsection (b) or the information specified in subsection (b)(1)(A) through (E) or subsection ~~(b)(2)(A) (b)(3)(A)~~

through (C), as applicable, and a statement that any claim that the defective corporate act or putative stock ratified hereunder is void or voidable due to the failure of authorization, or that the district court should declare in its discretion that a ratification in accordance with this section not be effective or be effective only on certain conditions must be brought within 120 days from the later of the validation effective time or the time at ~~which~~ when the notice required by this subsection is given.

(2) Notwithstanding the provisions of paragraph (1):

(A) No such notice shall be required if notice of the ratification of the defective corporate act is to be given in accordance with subsection (d); and

(B) in the case of a corporation that has a class of stock listed on a national securities exchange, the notice required by this subsection *and subsection (d)(1)*, may be deemed given if disclosed in a document publicly filed by the corporation with the securities and exchange commission pursuant to ~~section 13, 14 or 15(d) of the securities exchange act of 1934, as amended, 15 U.S.C. §§ 78m, 78n or 78o(d)~~ and the rules and regulations promulgated thereunder, or the corresponding provisions of any subsequent federal securities laws, rules or regulations.

(3) If any defective corporate act has been approved by stockholders acting pursuant to K.S.A. 17-6518, and amendments thereto, the notice required by this subsection may be included in any notice required to be given pursuant to K.S.A. 17-6518(e), and amendments thereto, and, if so given, shall be sent to the stockholders entitled thereto under K.S.A. 17-6518(e), and amendments thereto, and to all holders of valid and putative stock to whom notice would be required under this subsection if the defective corporate act had been approved at a meeting other than any stockholder who approved the action by consent in lieu of a meeting pursuant to K.S.A. 17-6518, and amendments thereto, or any holder of putative stock who otherwise consented thereto in writing. Solely for purposes of subsection (d) and this subsection, notice to holders of putative stock, and notice to holders of valid stock and putative stock as of the time of the defective corporate act, shall be treated as notice to holders of valid stock for purposes of K.S.A. 17-6512, 17-6518, 17-6519, 17-6520, 17-6522 and 17-6523, and amendments thereto.

(h) As used in this section and in K.S.A. 2022 Supp. 17-6429, and amendments thereto, only, ~~the terms:~~

(1) “Defective corporate act” means an overissue, an election or appointment of directors that is void or voidable due to a failure of authorization, or any act or transaction purportedly taken by or on behalf of the corporation that is, and at the time such act or transaction was purportedly taken would have been, within the power of a corporation under the provisions of article 61 of chapter 17 of the Kansas Statutes Annotated,

and amendments thereto, *without regard to the failure of authorization identified in subsection (b)(1)(D)*, but is void or voidable due to a failure of authorization.

(2) “Failure of authorization” means:

(A) The failure to authorize or effect an act or transaction in compliance with the provisions of this code, the articles of incorporation or bylaws of the corporation, or any plan or agreement to which the corporation is a party *or the disclosure set forth in any proxy or consent solicitation statement*, if and to the extent such failure would render such act or transaction void or voidable; or

(B) the failure of the board of directors or any officer of the corporation to authorize or approve any act or transaction taken by or on behalf of the corporation that would have required for its due authorization the approval of the board of directors or such officer.

(3) “Overissue” means the purported issuance of:

(A) Shares of capital stock of a class or series in excess of the number of shares of such class or series the corporation has the power to issue under K.S.A. 17-6411, and amendments thereto, at the time of such issuance; or

(B) shares of any class or series of capital stock that is not then authorized for issuance by the articles of incorporation of the corporation.

(4) “Putative stock” means the shares of any class or series of capital stock of the corporation, including shares issued upon exercise of options, rights, warrants or other securities convertible into shares of capital stock of the corporation, or interests with respect thereto that were created or issued pursuant to a defective corporate act, that:

(A) But for any failure of authorization, would constitute valid stock; or

(B) cannot be determined by the board of directors to be valid stock.

(5) “Time of the defective corporate act” means the date and time the defective corporate act was purported to have been taken.

(6) “Validation effective time” with respect to any defective corporate act ratified pursuant to this section means the latest of:

(A) The time ~~at which~~ *when* the defective corporate act submitted to the stockholders for approval pursuant to subsection (c) is approved by such stockholders, or if no such vote of stockholders is required to approve the ratification of the defective corporate act, the time ~~at which~~ *when* the board of directors adopts the resolutions required by subsection ~~(b)(1) or (b)(2)~~ *(b)*;

(B) where no certificate of validation is required to be filed pursuant to subsection (e), the time, if any, specified by the board of directors in the resolutions adopted pursuant to subsection ~~(b)(1) or (b)(2)~~, ~~which time (b)~~ *(b)* shall not precede the time ~~at which~~ *when* such resolutions are adopted; and

(C) the time ~~at which~~ *when* any certificate of validation filed pursuant to subsection (e) shall become effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto.

(7) “Valid stock” means the shares of any class or series of capital stock of the corporation that have been duly authorized and validly issued in accordance with ~~the Kansas general corporation~~ *this code*.

(i) In the absence of actual fraud in the transaction, the judgment of the board of directors that shares of stock are valid stock or putative stock shall be conclusive, unless otherwise determined by the district court in a proceeding brought pursuant to K.S.A. 2022 Supp. 17-6429, and amendments thereto.

~~(j)~~ (j) Ratification under this section or validation under K.S.A. 2022 Supp. 17-6429, and amendments thereto, shall not be deemed to be the exclusive means of ratifying or validating any act or transaction taken by or on behalf of the corporation, including any defective corporate act, or any issuance of stock, including any putative stock, or of adopting or endorsing any act or transaction taken by or in the name of the corporation prior to the commencement of its existence, and the absence or failure of ratification in accordance with either this section or validation under K.S.A. 2022 Supp. 17-6429, and amendments thereto, shall not, of itself, affect the validity or effectiveness of any act or transaction or the issuance of any stock properly ratified under common law or otherwise, nor shall it create a presumption that any such act or transaction is or was a defective corporate act or that such stock is void or voidable.

~~(j) This section shall be part of and supplemental to article 64 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto.~~

Sec. 21. K.S.A. 2022 Supp. 17-6502 is hereby amended to read as follows: 17-6502. (a) Unless otherwise provided in the articles of incorporation and subject to the provisions of K.S.A. 17-6503, and amendments thereto, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder. If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this code to a majority or other proportion of stock shall refer to such majority or other proportion of the votes of such stock.

(b) Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for the stockholder by proxy as provided in this subsection, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

(c) Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy pursuant to subsection (b), the following shall constitute a valid means by which a stockholder may grant such authority:

(1) A stockholder, or *such stockholder's authorized representative or agent*, may execute a ~~writing document~~ authorizing another person or persons to act for such stockholder as proxy. ~~Execution may be accomplished by the stockholder or the stockholder's authorized officer, director, employee or agent signing the writing or causing the stockholder's signature to be affixed to the writing by any reasonable means, including, but not limited to, facsimile signature; and~~

(2) a stockholder may authorize another person or persons to act for such stockholder as proxy by transmitting, or authorizing the transmission of, ~~a means of an~~ electronic transmission, including telephonic transmission, to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will be the holder of the proxy to receive the transmission, ~~provided that~~. Any such ~~electronic~~ transmission must either set forth or be submitted with information from which it can be determined that the ~~electronic~~ transmission was authorized by the stockholder. If it is determined that such ~~electronic~~ transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied; *and*

(3) *the authorization of a person to act as a proxy may be documented, signed and delivered in accordance with section 1, and amendments thereto. Such authorization shall set forth, or be delivered with information enabling the corporation to determine, the identity of the stockholder granting such authorization.*

(d) A copy, facsimile telecommunication, or other reliable reproduction of the ~~writing or document, including any electronic~~ transmission, authorized under subsections (c)(1) and (c)(2) may be substituted for the original ~~writing or transmission document~~ for any purpose for which the original ~~writing or transmission document~~ could be used, except that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original ~~writing or transmission document~~.

(e) A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the corporation generally.

Sec. 22. K.S.A. 2022 Supp. 17-6503 is hereby amended to read as follows: 17-6503. (a) In order that the corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the board of directors may fix a record date, ~~which record date that shall not precede the date upon which when~~ the resolution fixing the record date is adopted by the board of directors; and ~~which record~~

date shall not be more than 60 nor less than 10 days before the date of such meeting. If the board of directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the board of directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the board of directors, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day ~~on which~~ when notice is given, or, if notice is waived, at the close of business on the day next preceding the day ~~on which~~ when the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting except that the board of directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the ~~foregoing~~ provisions of this subsection at the adjourned meeting.

(b) In order that the corporation may determine the stockholders entitled to consent to corporate action ~~in writing~~ without a meeting *in accordance with K.S.A. 17-6518, and amendments thereto*, the board of directors may fix a record date ~~which record date~~ that shall not precede the date ~~upon which~~ when the resolution fixing the record date is adopted by the board of directors, and ~~which date~~ shall not be more than 10 days after the date ~~upon which~~ when the resolution fixing the record date is adopted by the board of directors. If no record date has been fixed by the board of directors, the record date for determining stockholders entitled to consent to corporate action ~~in writing~~ without a meeting, when no prior action by the board of directors is required by this code, shall be the first date ~~on which~~ when a signed ~~written~~ consent setting forth the action taken or proposed to be taken is delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested in accordance with K.S.A. 17-6518(d), and amendments thereto.~~ If no record date has been fixed by the board of directors and prior action by the board of directors is required by this code, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day ~~on which~~ when the board of directors adopts the resolution taking such prior action.

(c) In order that the corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the board of directors may fix a record date, ~~which record date~~ *that* shall not precede the date ~~upon which~~ *when* the resolution fixing the record date is adopted, and ~~which record date~~ shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day ~~on which~~ *when* the board of directors adopts the resolution relating thereto.

Sec. 23. K.S.A. 2022 Supp. 17-6509 is hereby amended to read as follows: 17-6509. (a) ~~The officer who has charge of the stock ledger of a corporation shall prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, except that if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the 10th day before the meeting date, arranged in alphabetical order, and showing the *postal* address of each stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this section shall require the corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (1) On a reasonably accessible electronic network, ~~provided if~~ that the information required to gain access to such list is provided with the notice of the meeting; or (2) during ordinary business hours, at the principal place of business of the corporation. ~~In the event that~~ *If* the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.~~

(b) If the corporation, or an officer or agent thereof, refuses to permit examination of the list by a stockholder, such stockholder may apply to the district court for an order to compel the corporation to permit such examination. The burden of proof shall be on the corporation to establish

that the examination such stockholder seeks is for a purpose not germane to the meeting. The court may summarily order the corporation to permit examination of the list upon such conditions as the court may deem appropriate, and may make such additional orders as may be appropriate, including, without limitation, postponing the meeting or voiding the results of the meeting.

(c) *For purposes of this code, “stock ledger” means one or more records administered by or on behalf of the corporation in which the names of all of the corporation’s stockholders of record, the address and number of shares registered in the name of each such stockholder and all issuances and transfers of stock of the corporation are recorded in accordance with K.S.A. 17-6514, and amendments thereto.* The stock ledger shall be the only evidence as to who are the stockholders entitled by this section to examine the list required by this section or to vote in person or by proxy at any meeting of stockholders.

Sec. 24. K.S.A. 2022 Supp. 17-6512 is hereby amended to read as follows: 17-6512. (a) Whenever stockholders are required or permitted to take any action at a meeting, a ~~written~~ notice of the meeting shall be given ~~which~~ *that* shall state the place, if any, date and hour of the meeting, the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Unless otherwise provided in this code, the ~~written~~ notice of any meeting shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting. ~~If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder’s address as it appears on the records of the corporation. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given shall be prima facie evidence of the facts stated therein in the absence of fraud.~~

(c) When a meeting is adjourned to another time or place, unless the bylaws otherwise require, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business ~~which~~ *that* might have been transacted at the original meeting. If the adjournment

is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If, after the adjournment, a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the board of directors shall fix a new record date for notice of such adjourned meeting in accordance with K.S.A. 17-6503(a), and amendments thereto, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Sec. 25. K.S.A. 2022 Supp. 17-6514 is hereby amended to read as follows: 17-6514. Any records ~~maintained~~ *administered by a or on behalf of the corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of any information storage device or, method provided that, or one or more electronic networks or databases, including one or more distributed electronic networks or databases, if the records so kept can be converted into clearly legible paper form within a reasonable time and, with respect to the stock ledger: (a) Can be used to prepare the list of stockholders specified in K.S.A. 17-6509 and 17-6510, and amendments thereto; (b) contain the information specified in K.S.A. 17-6406, 17-6409, 17-6507(a) and 17-6508, and amendments thereto; and (c) include transfers of stock as governed by article 8 of chapter 84 of the Kansas Statutes Annotated, and amendments thereto.* Any corporation shall ~~so~~ convert any records so kept *into clearly legible paper form* upon the request of any person entitled to inspect such records pursuant to any provision of this code. When records are kept in such manner, a clearly legible paper form ~~produced~~ *prepared from or by the means of the information storage device or, method, or one or more electronic networks or databases, including one or more distributed electronic networks or databases, shall be valid and* admissible in evidence and shall be accepted for all other purposes, to the same extent as an original paper record of the same information would have been, ~~provided if the paper form accurately portrays the record.~~

Sec. 26. K.S.A. 2022 Supp. 17-6518 is hereby amended to read as follows: 17-6518. (a) Unless otherwise provided in the articles of incorporation, any action required by this code to be taken at any annual or special meeting of stockholders of a corporation, or any action ~~which~~ *that* may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents ~~in writing~~, setting forth the action so taken, are signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the corporation ~~by delivery to its registered of-~~

file in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested *in the manner required by this section.*

(b) Unless otherwise provided in the articles of incorporation, any action required by this code to be taken at a meeting of the members of a nonstock corporation, or any action ~~which~~ *that* may be taken at any meeting of the members of a nonstock corporation, may be taken without a meeting, without prior notice and without a vote, if a consent or consents ~~in writing~~, setting forth the action so taken, are signed by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members having a right to vote thereon were present and voted and shall be delivered to the corporation ~~by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of members are recorded.~~ Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested *in the manner required by this section.*

(c) ~~Every written consent shall bear the date of signature of each stockholder or member who signs the consent, and~~ *A consent must be set forth in writing or in an electronic transmission.* ~~No written consent shall be effective to take the corporate action referred to therein in such consent unless, within 60 days of the earliest dated consent delivered in the manner required by this section to the corporation, written consents signed by a sufficient number of holders or members to take action are delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested in the manner required by this section within 60 days of the first date when a consent is so delivered to the corporation.~~ Any person executing a consent may provide, whether through instruction to an agent or otherwise, that such a consent will be effective at a future time, including a time determined upon the happening of an event, no later than 60 days after such instruction is given or such provision is made, ~~and, for the purposes of this section, if evidence of such instruction or provision is provided to the corporation, such later effective time shall serve as the date of signature.~~ Unless otherwise provided, any such consent shall be revocable prior to its becoming effective. *All references to a "consent" in this section mean a consent permitted by this section.*

(d) (1) Any electronic transmission consenting to an action to be taken and transmitted by a stockholder, member or proxyholder, or by a person or persons authorized to act for a stockholder, member or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such electronic transmission sets forth or is delivered with information from which the corporation can determine: (A) That the electronic transmission was transmitted by the stockholder, member or proxyholder or by a person or persons authorized to act for the stockholder, member or proxyholder; and (B) the date on which such stockholder, member or proxyholder or authorized person or persons transmitted such electronic transmission. The date on which such electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the corporation by delivery to its registered office in this state, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, any consent or consents given by electronic transmission, may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded if, to the extent and in the manner provided by resolution of the board of directors or governing body of the corporation *A consent permitted by this section shall be delivered: (A) To the principal place of business of the corporation; (B) to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded; (C) to the registered office of the corporation in this state by hand or by certified or registered mail, return receipt requested; or (D) subject to paragraph (2), in accordance with section 1, and amendments thereto, to an information processing system, if any, designated by the corporation for receiving such consents.*

(2) *In the case of delivery pursuant to subsection (d)(1)(D), such consent must set forth or be delivered with information that enables the corporation to determine the date of delivery of such consent and the identity of the person giving such consent, and, if such consent is given by a person authorized to act for a stockholder or member as proxy, such consent must comply with the applicable provisions of K.S.A. 17-6502(c)(2) and (c)(3), and amendments thereto.*

(3) Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any

and all purposes for which the original writing could be used, ~~provided that~~ Such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing. *A consent may be documented and signed in accordance with section 1, and amendments thereto, and when so documented or signed shall be deemed to be in writing for purposes of this code. If such consent is delivered pursuant to subsection (d) (1)(A), (B) or (C), such consent must be reproduced and delivered in paper form.*

(e) Prompt notice of the taking of any corporate action without a meeting by less than unanimous ~~written~~ consent shall be given to those stockholders or members who have not consented ~~in writing~~ and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that ~~a written~~ consent or consents signed by a sufficient number of stockholders or members to take the action were delivered to the corporation as provided in ~~subsection (e) this section~~. In the event that the action ~~which~~ *that* is consented to is such as would have required the filing of a certificate under any other section of this code, if such action had been voted on by stockholders or members at a meeting thereof, the certificate filed under such other section shall state, in lieu of any statement required by such section concerning any vote of stockholders or members, that ~~written~~ consent has been given in accordance with the provisions of this section.

Sec. 27. K.S.A. 17-6520 is hereby amended to read as follows: 17-6520. (a) Whenever notice is required to be given, under any provision of this act or of the articles of incorporation or bylaws of any corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting ~~which shall be~~ *that* is taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this act, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(b) Whenever notice is required to be given, under any provision of this act or the articles of incorporation or bylaws of any corporation, to any stockholder or, if the corporation is a nonstock corporation, to any member, to whom (1) notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to such person during the period between such two consecutive

annual meetings, or (2) all, and at least two payments, if sent by first class mail, of dividends or interest on securities during a 12-month period, have been mailed addressed to such person at such person's *postal* address as shown on the records of the corporation and have been returned undeliverable, the giving of such notice to such person shall not be required. Any action or meeting ~~which shall be~~ *that is* taken or held without notice to such person shall have the same force and effect as if such notice had been duly given. If any such person shall deliver to the corporation a written notice setting forth such person's then current *postal* address, the requirement that notice be given to such person shall be reinstated. In the event that the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this chapter, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to this subsection.

(c) The exception in subsection (b)(1) to the requirement that notice be given shall not be applicable to:

(1) Any notice returned as undeliverable if the notice was given by electronic transmission; or

(2) *any stockholder or member whose electronic mail address appears on the records of the corporation and to whom notice by electronic transmission is not prohibited by K.S.A. 17-6522, and amendments thereto.*

Sec. 28. K.S.A. 2022 Supp. 17-6522 is hereby amended to read as follows: 17-6522. (a) *Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation under any provision of this code or the articles of incorporation or bylaws may be given in writing directed to the stockholder's postal address, or by electronic transmission directed to the stockholder's electronic mail address, as applicable, as it appears on the records of the corporation and shall be given: (1) If mailed, when the notice is deposited in the U.S. mail, postage prepaid; (2) if delivered by courier service, the earlier of when the notice is received or left at such stockholder's address; or (3) if given by electronic mail, when directed to such stockholder's electronic mail address unless the stockholder has notified the corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by subsection (e). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the corporation.*

(b) Without limiting the manner by which notice otherwise may be given effectively to stockholders, *but subject to subsection (e)*, any notice to stockholders given by the corporation under any provision of this code, or the articles of incorporation, ~~or the~~ bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the

stockholder by written notice *or electronic transmission* to the corporation. ~~Any such consent shall be deemed revoked if: (1) The corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent; and (2) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice. The inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.~~ *A corporation may give a notice by electronic mail in accordance with subsection (a) without obtaining the consent required by this subsection.*

~~(b)~~(c) Notice given pursuant to subsection ~~(a)~~ (b) shall be deemed given:

(1) If by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice;

~~(2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;~~ (3) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of:

(A) Such posting; and

(B) the giving of such separate notice; and

~~(4)~~(3) if by any other form of electronic transmission, when directed to the stockholder. ~~An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission, in the absence of fraud, shall be prima facie evidence of the facts stated therein.~~

~~(e)~~(d) For purposes of this code,;

(1) “Electronic transmission” means any form of communication, not directly involving the physical transmission of paper, *including the use of, or participation in, one or more electronic networks or databases or one or more distributed electronic networks or databases*, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process;

(2) “*electronic mail*” means an electronic transmission directed to a unique electronic mail address, including any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information; and

(3) “*electronic mail address*” means a destination, commonly expressed as a string of characters, consisting of a unique username or mailbox, commonly referred to as the “*local part*” of the address, and a reference to an internet domain, commonly referred to as the “*domain part*” of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(e) *Notwithstanding the provisions of this section, a notice shall not be given by an electronic transmission from and after the time that the corporation is unable to deliver by such electronic transmission two consecutive notices given by the corporation and such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice, but the inadvertent failure to discover such inability shall not invalidate any meeting or other action.*

(f) *An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated in the affidavit.*

~~(d)~~(g) *No provision of this section, except for subsections (a)(1), (d)(2) and (d)(3), shall not apply to K.S.A. 17-6414, 17-6906, 17-7001 or 17-7002, and amendments thereto.*

Sec. 29. K.S.A. 2022 Supp. 17-6701 is hereby amended to read as follows: 17-6701. (a) Any two or more corporations existing under the laws of this state may merge into a single *surviving* corporation, ~~which that~~ may be any one of the constituent corporations or may consolidate into a new *resulting* corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) The board of directors of each corporation ~~which that~~ desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation and declaring its ~~advisability~~ *advisability*. The agreement shall state: (1) The terms and conditions of the merger or consolidation; (2) the mode of carrying the same into effect; (3) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, ~~which amendments or changes~~ may amend and restate the articles of incorporation of the surviving corporation in their entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation; (4) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as are set forth in an attachment to the agreement; (5) the manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such shares and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity ~~which that~~ the holders of such shares are to receive in exchange for, or upon conver-

sion of, such shares and the surrender of any certificates evidencing them, ~~which~~ *and such* cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of the surviving or resulting corporation; and (6) such other details or provisions as are deemed desirable, including, without limiting the generality of ~~the foregoing~~ *this subsection*, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, ~~interests~~ *or rights or other securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation*, or for any other arrangement with respect thereto, consistent with the provisions of K.S.A. 17-6405, and amendments thereto. The agreement so adopted shall be executed *by an authorized person, except that if the agreement is filed, it shall be executed* in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto. Any terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, ~~provided that~~ *if* the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. ~~The term~~ “Facts,” as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) (1) The agreement required by subsection (b) shall be submitted to the stockholders of each constituent corporation at an annual or special meeting for the purpose of acting on the agreement.

(2) Due notice of the time, place and purpose of the meeting shall be ~~mailed~~ *given* to each holder of stock, whether voting or nonvoting, of the corporation at the stockholder’s *postal* address as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof.

(3) At the meeting the agreement shall be considered and a vote taken for its adoption or rejection. If a majority of the outstanding stock of the corporation entitled to vote thereon shall be voted for the adoption of the agreement, that fact shall be certified on the agreement by the secretary or assistant secretary of the corporation, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement shall be so adopted and certified by each constituent corporation, it shall then be filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7910 and 17-7911, and amendments thereto.

(4) In lieu of filing the agreement of merger or consolidation required by this section, the surviving or resulting corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, ~~which~~ *that* states:

(A) The name and state of incorporation of each of the constituent corporations;

(B) that an agreement of merger or consolidation has been approved, adopted, certified and executed by each of the constituent corporations in accordance with this section;

(C) the name of the surviving or resulting corporation;

(D) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which ~~amendments or changes~~ may amend and restate the articles of incorporation of the surviving corporation in their entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation shall be the articles of incorporation of the surviving corporation;

(E) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as are set forth in an attachment to the certificate;

(F) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation, stating the address thereof; and

(G) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any stockholder of any constituent corporation.

(d) (1) Any agreement of merger or consolidation may contain a provision that at any time prior to the time that the agreement, or a certificate in lieu thereof, filed with the secretary of state becomes effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto, the agreement may be terminated by the board of directors of any constituent corporation notwithstanding approval of the agreement by the stockholders of all or any of the constituent corporations; in the event the agreement of merger or consolidation is terminated after the filing of the agreement, or a certificate in lieu thereof, with the secretary of state but before the agreement, or a certificate in lieu thereof, has become effective, a certificate of termination of merger or consolidation shall be filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto.

(2) Any agreement of merger or consolidation may contain a provision that the boards of directors of the constituent corporations may amend the agreement at any time prior to the time that the agreement, or a certificate in lieu thereof, filed with the secretary of state becomes effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto, except that an amendment made subsequent to the adoption of the agreement by the stockholders of any constituent corporation shall not:

~~(1)(A)~~ Alter or change the amount or kind of shares, securities, cash, property or rights to be received in exchange for or on conversion of all

or any of the shares of any class or series thereof of such constituent corporation;

~~(2)~~(B) alter or change any term of the articles of incorporation of the surviving or resulting corporation to be effected by the merger or consolidation; or

~~(3)~~(C) alter or change any of the terms and conditions of the agreement if such alteration or change would adversely affect the holders of any class or series thereof of such constituent corporation. In the event the agreement of merger or consolidation is amended after the filing thereof with the secretary of state but before the agreement has become effective, a certificate of amendment of merger or consolidation shall be filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto.

(e) In the case of a merger, the articles of incorporation of the surviving corporation shall automatically be amended to the extent, if any, that changes in the articles of incorporation are set forth in the agreement of merger.

(f) (1) Notwithstanding the requirements of subsection (c), unless required by its articles of incorporation, no vote of stockholders of a constituent corporation surviving a merger shall be necessary to authorize a merger if:

(A) The agreement of merger does not amend in any respect the articles of incorporation of such constituent corporation;

(B) each share of stock of such constituent corporation outstanding immediately prior to the effective date of the merger is to be an identical outstanding or treasury share of the surviving corporation after the effective date of the merger; and

(C) either no shares of common stock of the surviving corporation and no shares, securities or obligations convertible into such stock are to be issued or delivered under the plan of merger, or the authorized unissued shares or the treasury shares of common stock of the surviving corporation to be issued or delivered under the plan of merger plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under such plan do not exceed 20% of the shares of common stock of such constituent corporation outstanding immediately prior to the effective date of the merger.

(2) No vote of stockholders of a constituent corporation shall be necessary to authorize a merger or consolidation if no shares of the stock of such corporation shall have been issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation.

(3) If an agreement of merger is adopted by the constituent corporation surviving the merger, by action of its board of directors and without any vote of its stockholders pursuant to this subsection, the secretary or

assistant secretary of that corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and:

(A) If it has been adopted pursuant to subsection (f)(1), that the conditions specified in that subsection have been satisfied; or

(B) if it has been adopted pursuant to subsection (f)(2), that no shares of stock of such corporation were issued prior to the adoption by the board of directors of the resolution approving the agreement of merger or consolidation.

(4) The agreement so adopted and certified shall then be executed and filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(g) Notwithstanding the requirements of subsection (c), unless expressly required by its articles of incorporation, no vote of stockholders of a constituent corporation shall be necessary to authorize a merger with or into a single direct or indirect wholly-owned subsidiary of such constituent corporation if:

(1) Such constituent corporation and the direct or indirect wholly-owned subsidiary of such constituent corporation are the only constituent entities to the merger;

(2) each share or fraction of a share of the capital stock of the constituent corporation outstanding immediately prior to the effective time of the merger is converted in the merger into a share or equal fraction of share of capital stock of a holding company having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof, as the share of stock of the constituent corporation being converted in the merger;

(3) the holding company and the constituent corporation are corporations of this state and the direct or indirect wholly-owned subsidiary that is the other constituent entity to the merger is a corporation or limited liability company of this state;

(4) the articles of incorporation and bylaws of the holding company immediately following the effective time of the merger contain provisions identical to the articles of incorporation and bylaws of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate name, the registered office and agent, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;

(5) as a result of the merger the constituent corporation or its successor becomes or remains a direct or indirect wholly-owned subsidiary of the holding company;

(6) the directors of the constituent corporation become or remain the directors of the holding company upon the effective time of the merger;

(7) (A) *with respect to a merger or consolidation consummated pursuant to an agreement entered into or resolutions of the board of directors adopted on or after July 1, 2023*, the organizational documents of the surviving entity immediately following the effective time of the merger ~~contain provisions identical to the articles of incorporation of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate or entity name, the registered office and agent, the initial board of directors and the initial subscribers for shares, references to members rather than stockholders or shareholders, references to interests, units or the like rather than stock or shares, references to managers, managing members or other members of the governing body rather than directors and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;~~

~~(B) if the organizational documents of the surviving entity do not contain the following provisions, such documents shall be amended in the merger to contain provisions requiring that:~~

(i) Any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that ~~requires, if taken by the constituent corporation immediately prior to the effective time of the merger, would require, for its adoption under this code or its organizational documents under the articles of incorporation or bylaws of the constituent corporation immediately prior to the effective time of the merger, the approval of the stockholders or members of the surviving entity of the constituent corporation shall, by specific reference to this subsection, require, in addition to approval of the stockholders or members of the surviving entity, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the organizational documents of the surviving entity articles of incorporation or bylaws of the constituent corporation immediately prior to the effective time of the merger, or both. For purposes of this clause, any surviving entity that is not a corporation shall include in such amendment a requirement that the approval of the stockholders of the holding company be obtained for any act or transaction by or involving the surviving entity, other than the election or removal~~

~~of directors or managers, managing members or other members of the governing body of the surviving entity, which would require the approval of the stockholders of the surviving entity if the surviving entity were a corporation subject to this code;~~

~~(ii)—any amendment of the organizational documents of a surviving entity that is not a corporation, which amendment that would, if adopted by a corporation subject to this code, be required to be included in the articles of incorporation of such corporation, shall, by specific reference to this subsection, require, in addition, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the organizational documents of the surviving entity articles of incorporation or bylaws of the constituent corporation immediately prior to the effective time of the merger, or both; and~~

~~(iii)(ii) the business and affairs of a surviving entity that is not a corporation shall be managed by or under the direction of a board of directors, board of managers or other governing body consisting of individuals who are subject to the same fiduciary duties applicable to, and who are liable for breach of such duties to the same extent as, directors of a corporation subject to this code; and~~

~~(C) the organizational documents of the surviving entity may be amended in the merger to: (i) Reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue; and (ii) eliminate any provision authorized by K.S.A. 17-6301(d), and amendments thereto; and~~

~~(B) with respect to mergers or consolidations consummated prior to July 1, 2023:~~

~~(i) The organizational documents of the surviving entity immediately following the effective time of the merger contain provisions identical to the articles of incorporation of the constituent corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate or entity name, the registered office and agent, the initial board of directors and the initial subscribers for shares, references to members rather than stockholders or shareholders, references to interests, units or the like rather than stock or shares, references to managers, managing members or other members of the governing body rather than directors and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification, subdivision, combination or cancellation of stock, if such change, exchange, reclassification, subdivision, combination or cancellation has become effective;~~

~~(ii) if the organizational documents of the surviving entity do not contain the following provisions, such documents shall be amended in the merger to contain provisions requiring that:~~

(a) *Any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that requires for its adoption under this code or its organizational documents the approval of the stockholders or members of the surviving entity shall, by specific reference to this subsection, require, in addition, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the organizational documents of the surviving entity, or both. For purposes of this subclause, any surviving entity that is not a corporation shall include in such amendment a requirement that the approval of the stockholders of the holding company be obtained for any act or transaction by or involving the surviving entity, other than the election or removal of directors or managers, managing members or other members of the governing body of the surviving entity, that would require the approval of the stockholders of the surviving entity if the surviving entity were a corporation subject to this code;*

(b) *any amendment of the organizational documents of a surviving entity that is not a corporation that would, if adopted by a corporation subject to this code, be required to be included in the articles of incorporation of such corporation, shall require, by specific reference to this subsection, the approval of the stockholders of the holding company, or any successor by merger, by the same vote as is required by this code or by the organizational documents of the surviving entity or both; and*

(c) *the business and affairs of a surviving entity that is not a corporation shall be managed by or under the direction of a board of directors, board of managers or other governing body consisting of individuals who are subject to the same fiduciary duties applicable to, and who are liable for breach of such duties to the same extent as, directors of a corporation subject to this code; and*

(iii) *the organizational documents of the surviving entity may be amended in the merger to:*

(a) *Reduce the number of classes and shares of capital stock or other equity interests or units that the surviving entity is authorized to issue; and*

(b) *eliminate any provision authorized by K.S.A. 17-6301(d), and amendments thereto; and*

(8) *the stockholders of the constituent corporation do not recognize gain or loss for United States federal income tax purposes as determined by the board of directors of the constituent corporation. Neither subsection (g)(7)(B) nor any provision of a surviving entity's organizational documents required by subsection (g)(7)(B) shall be deemed or construed to require approval of the stockholders of the holding company to elect or remove directors or managers, managing members or other members of the governing body of the surviving entity.*

~~The term~~ “Organizational documents,” as used in ~~subsection~~ *subsections* (g)(7) and (g)(8), when used in reference to a corporation, means the articles of incorporation of such corporation and, when used in reference to a limited liability company, means the articles of organization or operating agreement of such limited liability company.

As used in this subsection, ~~the term~~ “holding company” means a corporation ~~which~~ *that*, from its incorporation until consummation of a merger governed by this subsection, was at all times a direct or indirect wholly-owned subsidiary of the constituent corporation and whose capital stock is issued in such merger. From and after the effective time of a merger adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection: (1) To the extent the restriction of K.S.A. 2022 Supp. 17-6427, and amendments thereto, applied to the constituent corporation and its stockholders at the effective time of the merger, such restrictions shall apply to the holding company and its stockholders immediately after the effective time of the merger as though it were the constituent corporation, and all shares of stock of the holding company acquired in the merger shall for purposes of K.S.A. 2022 Supp. 17-6427, and amendments thereto, be deemed to have been acquired at the time that the shares of stock of the constituent corporation converted in the merger were acquired, ~~and provided further that~~. Any stockholder who immediately prior to the effective time of the merger was not an interested stockholder within the meaning of K.S.A. 2022 Supp. 17-6427, and amendments thereto, shall not solely by reason of the merger become an interested stockholder of the holding company; (2) if the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of the constituent corporation immediately prior to the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of the constituent corporation are converted in the merger shall be represented by the stock certificates that previously represented shares of capital stock of the constituent corporation; and (3) to the extent a stockholder of the constituent corporation immediately prior to the merger had standing to institute or maintain derivative litigation on behalf of the constituent corporation, nothing in this section shall be deemed to limit or extinguish such standing. If an agreement of merger is adopted by a constituent corporation by action of its board of directors and without any vote of stockholders pursuant to this subsection, the secretary or assistant secretary of the constituent corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in the first sentence of this subsection have been satisfied, except that such certification on the agreement shall not be required if a certificate of merger or consolidation

is ~~filled~~ *filed* in lieu of filing the agreement. The agreement so adopted and certified shall then be executed, filed and become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(h) (1) Notwithstanding the requirements of subsection (c), unless expressly required by its articles of incorporation, no vote of stockholders of a constituent corporation ~~whose shares are~~ *that has a class or series of stock that is* listed on a national securities exchange or held of record by more than 2,000 holders immediately prior to the execution of the agreement of merger by such constituent corporation shall be necessary to authorize a merger if:

(A) The agreement of merger expressly:

(i) Permits or requires such merger to be effected under this subsection; and

(ii) provides that such merger shall be effected as soon as practicable following the consummation of the offer referred to in subsection ~~(i)(1)~~ *(h)(1)(B)* if such merger is effected under this subsection;

~~(B) a corporation consummates a tender or exchange~~ *an offer for any and all of the outstanding stock of such constituent corporation on the terms provided in such agreement of merger that, absent this subsection, would be entitled to vote on the adoption or rejection of the agreement of merger, except that such offer may exclude stock of such constituent corporation that is owned at the commencement of such offer by: (i) Such constituent corporation; (ii) the corporation making such offer; (iii) any person that owns, directly or indirectly, all of the outstanding stock of the corporation making such offer; or (iv) any direct or indirect wholly owned subsidiary of any of the foregoing* *be conditioned on the tender of a minimum number or percentage of shares of stock of such constituent corporation, or of any class or series thereof, and such offer may exclude any excluded stock. The corporation may consummate separate offers for separate classes or series of the stock of such constituent corporation;*

~~(C) immediately~~ following the consummation of the offer referred to in subsection ~~(i)(1)(B)~~ *(h)(1)(B)*, the stock irrevocably accepted for purchase or exchange pursuant to such offer and received by the depository prior to expiration of such offer, ~~plus together with~~ the stock otherwise owned by the consummating corporation ~~or its affiliates and any rollover stock~~, equals at least such percentage of the ~~shares of stock of such constituent corporation~~, and of each class or series thereof, ~~of such constituent corporation~~ that, absent this subsection, would be required to adopt the agreement of merger by this code and by the articles of incorporation of such constituent corporation;

(D) the corporation consummating the offer described in subsection ~~(i)(1)(B)~~ (h)(1)(B) merges with or into such constituent corporation pursuant to such agreement; and

(E) each outstanding share, *other than shares of excluded stock*, of each class or series of stock of ~~the~~ *such* constituent corporation that is the subject of and *is* not irrevocably accepted for purchase or exchange in the offer referred to in subsection ~~(i)(1)(B)~~ (h)(1)(B) is to be converted in such merger into, or into the right to receive, the same amount and kind of cash, property, rights or securities to be paid for shares of such class or series of stock of such constituent corporation irrevocably accepted for purchase or exchange in such offer.

(2) As used in this subsection, ~~the term:~~

(A) “Affiliate” means, in respect of the corporation making the offer referred to in subsection (h)(1)(B), any person that:

(i) Owns, directly or indirectly, all of the outstanding stock of such corporation; or

(ii) is a direct or indirect wholly-owned subsidiary of such corporation or of any person referred to in clause (i);

(B) “consummates,” and with correlative meaning, “consummation” and “consummating,” means irrevocably accepts for purchase or exchange stock tendered pursuant to a ~~tender or exchange~~ *an* offer;

~~(B)(C)~~ “depository” means an agent, including a depository, appointed to facilitate consummation of the offer referred to in subsection ~~(i)(1)~~ ~~(B)~~ (h)(1)(B);

~~(C)(D)~~ “excluded stock” means:

(i) *Stock of such constituent corporation that is owned at the commencement of the offer referred to in subsection (h)(1)(B) by such constituent corporation, the corporation making the offer referred to in subsection (h)(1)(B), any person that owns, directly or indirectly, all of the outstanding stock of the corporation making such offer or any direct or indirect wholly-owned subsidiary of any of the foregoing; and*

(ii) *rollover stock;*

(E) “person” means any individual, corporation, partnership, limited liability company, unincorporated association or other entity; and

~~(D)(F)~~ “received,” solely for purposes of subsection ~~(i)(1)(C)~~ (h)(1)(C), means:

(i) *With respect to certificated shares, physical receipt of a stock certificate in the case of certificated shares and transfer into the depository’s account, or an agent’s message being received by the depository, in the case of uncertificated shares accompanied by an executed letter of transmittal;*

(ii) *with respect to uncertificated shares held of record by a clearing corporation as nominee, transfer into the depository’s account by means of an agent’s message; and*

(iii) *with respect to uncertificated shares held of record by a person other than a clearing corporation as nominee, physical receipt of an executed letter of transmittal by the depository, except that shares shall cease to be “received” pursuant to the following:*

(a) *With respect to certificated shares, if the certificate representing such shares was canceled prior to consummation of the offer referred to in subsection (h)(1)(B); or*

(b) *with respect to uncertificated shares, to the extent such uncertificated shares have been reduced or eliminated due to any sale of such shares prior to consummation of the offer referred to in subsection (h)(1)(B); and*

(G) *“rollover stock” means any shares of stock of such constituent corporation that are the subject of a written agreement requiring such shares to be transferred, contributed or delivered to the consummating corporation or any of its affiliates in exchange for stock or other equity interests in such consummating corporation or an affiliate thereof, except that such shares of stock shall cease to be rollover stock for purposes of subsection (h)(1)(C) if, immediately prior to the time the merger becomes effective under this code, such shares have not been transferred, contributed or delivered to the consummating corporation or any of its affiliates pursuant to such written agreement.*

(3) If an agreement of merger is adopted without the vote of stockholders of a corporation pursuant to this subsection, the secretary or assistant secretary of the surviving corporation shall certify on the agreement that the agreement has been adopted pursuant to this subsection and that the conditions specified in this subsection, other than the condition listed in subsection ~~(i)(1)(D)~~ (h)(1)(D), have been satisfied, except that such certification on the agreement shall not be required if a certificate of merger is filed in lieu of filing the agreement. The agreement so adopted and certified shall then be executed and filed and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

(4) *This subsection shall be effective only with respect to merger agreements entered into on or after July 1, 2023. This subsection, prior to its amendment by this act, shall be effective with respect to merger agreements entered into before July 1, 2023.*

Sec. 30. K.S.A. 2022 Supp. 17-6702 is hereby amended to read as follows: 17-6702. (a) Any one or more corporations of this state may merge or consolidate with one or more other corporations of any other state or states of the United States, or of the District of Columbia if the laws of such other jurisdiction permit a corporation of such jurisdiction to merge

or consolidate with a corporation of another jurisdiction *foreign corporations unless the laws of the jurisdiction or jurisdictions under which such foreign corporation or corporations are organized prohibit such merger or consolidation.* The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* corporation formed by the consolidation, which may be a corporation of the ~~state jurisdiction of incorporation~~ *jurisdiction of incorporation* of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. ~~In addition, any one or more corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more corporations existing under the laws of this state, if the laws under which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge or consolidate with a corporation of another jurisdiction.~~

(b) (I) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state:

~~(1)~~(A) The terms and conditions of the merger or consolidation;

~~(2)~~(B) the mode of carrying the same into effect;

~~(3)~~(C) *in the case of a merger in which the surviving corporation is a domestic corporation, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*

(D) *in the case of a consolidation in which the resulting corporation is a domestic corporation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;*

(E) the manner, if any, of converting the shares of each of the constituent corporations into shares or other securities of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such shares, and, if any shares of any of the constituent corporations are not to remain outstanding, to be converted solely into shares or other securities of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity ~~which~~ *that* the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of any certificates evidencing them, ~~which~~ *and* such cash, property, rights or securities of any other corporation may be in addition to or in lieu of the shares or other securities of the surviving or resulting corporation; ~~(4)~~

(F) such other details or provisions as are deemed desirable, including, without limiting the generality of ~~the foregoing~~ *this paragraph*, a pro-

vision for the payment of cash in lieu of the issuance or recognition of fractional shares, *rights or other securities* of the surviving or resulting corporation or of any other corporation or *entity* the *shares, rights or other securities* of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto consistent with the provisions of K.S.A. 17-6405, and amendments thereto; and

~~(5)(G)~~ such other provisions or facts as shall be required to be set forth in ~~articles of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the~~ *an agreement of merger or consolidation, including any provision for amendment of the articles of incorporation, or equivalent document, of a surviving or resulting foreign corporation and that can be stated in the case of a merger or consolidation by the laws of each jurisdiction under which any of the foreign corporations are organized.*

(2) Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement; ~~provided that if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "Facts," as used in the preceding sentence, this paragraph,~~ includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement shall be adopted, approved, certified and executed by each of the constituent corporations in accordance with the laws under which it is ~~formed~~ *organized*, and, in the case of a ~~Kansas domestic~~ corporation, in the same manner as provided in K.S.A. 17-6701, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger or consolidation of corporations of this state. In lieu of filing the agreement of merger or consolidation, the surviving or resulting corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. 2022 Supp. 17-7908, and amendments thereto, ~~which that states:~~

(1) The name and jurisdiction of ~~incorporation~~ *organization* of each of the constituents;

(2) that an agreement of merger or consolidation has been approved, adopted, certified and executed by each of the constituent corporations in accordance with this section;

(3) the name of the surviving or resulting corporation;

(4) in the case of a merger *in which the surviving corporation is a domestic corporation*, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, ~~which amendments or changes~~ may amend and restate the

articles of incorporation of the surviving corporation in their entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;

(5) in the case of a consolidation *in which the resulting corporation is a domestic corporation*, that the articles of incorporation of the resulting corporation shall be as are set forth in an attachment to the certificate;

(6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving or resulting corporation and the address thereof;

(7) that a copy of the agreement of consolidation or merger will be furnished by the surviving or resulting corporation, on request and without cost, to any stockholder of any constituent corporation;

(8) if the corporation surviving or resulting from the merger or consolidation is ~~to be a domestic corporation of this state~~, the authorized capital stock of each constituent corporation ~~which that is not a domestic corporation of this state~~; and

(9) the agreement, if any, required by subsection (d).

(d) If the corporation surviving or resulting from the merger or consolidation is ~~to be governed by the laws of the District of Columbia or any state or jurisdiction other than this state~~ *a foreign corporation*, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent *domestic* corporation ~~of this state~~, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation, including any suit or other proceeding to enforce the right of any stockholders as determined in appraisal proceedings pursuant to K.S.A. 17-6712, and amendments thereto, and shall irrevocably appoint the secretary of state as its agent to accept service of process in any such suit or other proceedings and shall specify the *postal* address to which a copy of such process shall be mailed by the secretary of state. Process may be served upon the secretary of state under this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to ~~issue~~ *adopt* such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with this subsection, the secretary of state shall ~~forthwith~~ *immediately* notify such surviving or resulting corporation thereof by letter, directed to such surviving or resulting corporation at its address so specified, unless such surviving or resulting corporation shall have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit

with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the secretary of state pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being effected pursuant to this subsection and to pay the secretary of state the sum of \$40 for the use of the state, ~~which~~. Such sum and any administrative fees shall be taxed as part of the costs of the proceeding, if the plaintiff ~~shall prevail therein~~ *prevails*. The secretary of state shall maintain a record of any such service in a manner deemed appropriate by the secretary. The secretary of state shall not be required to retain such information longer than five years from receipt of the service of process.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to any merger or consolidation under this section; K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section in which the surviving corporation is a *domestic* corporation ~~of this state~~; and K.S.A. 17-6701(f) and (h), and amendments thereto, shall apply to any merger under this section.

Sec. 31. K.S.A. 2022 Supp. 17-6703 is hereby amended to read as follows: 17-6703. (a) In any case in which at least 90% of the outstanding shares of each class of the stock of a corporation or corporations, other than a corporation ~~which~~ *that* has in its articles of incorporation the provisions required by K.S.A. 17-6701(g)(7)(~~B~~), and amendments thereto, of which class there are outstanding shares that, absent this subsection, would be entitled to vote on such merger, is owned by ~~another corporation and one of the corporations is a domestic corporation of this state and the other or others are corporations of this state, or any other state or states, or the District of Columbia and the laws of the other state or states, or the District of Columbia permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction, the corporation having such stock ownership may either merge the other or a foreign corporation and one or more of such corporations is a domestic corporation, unless the laws of the jurisdiction or jurisdictions under which the foreign corporation or corporations are organized prohibit such merger, the parent corporation may either merge the subsidiary~~ corporation or corporations into itself and assume all of its or their obligations, or merge itself, or itself and one or more of such other *subsidiary* corporations, into one of such ~~other subsidiary~~ corporations by executing and filing, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto, a certificate of such ownership and merger setting forth a copy of the resolution of its board of directors to so merge and the date of the adoption thereof, except that in case the parent corporation shall not own all the outstanding stock of all the subsidiary corporations, parties to a merger

as provided in this section, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including the securities, cash, property or rights to be issued, paid, delivered or granted by the surviving corporation upon surrender of each share of the subsidiary corporation or corporations not owned by the parent corporation, or the cancellation of some or all of such shares. Any of the terms of the resolution of the board of directors to so merge may be made dependent upon facts ascertainable outside of such resolution, ~~provided that~~ if the manner in which such facts shall operate upon the terms of the resolution is clearly and expressly set forth in the resolution. The term “Facts,” as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation. If the parent corporation ~~is~~ not the surviving corporation, the resolution shall include provision for the pro rata issuance of stock of the surviving corporation to the holders of the stock of the parent corporation on surrender of any certificates therefor, and the certificate of ownership and merger shall state that the proposed merger has been approved by a majority of the outstanding stock of the parent corporation entitled to vote thereon at a meeting duly called and held after 20 days’ notice of the purpose of the meeting ~~mailed~~ given to each such stockholder at the stockholder’s *postal* address as it appears on the records of the corporation, if the parent corporation is a *domestic* corporation ~~of this state~~, or the certificate shall state that the proposed merger has been adopted, approved, certified and executed by the parent corporation in accordance with the laws under which it is organized, if the parent corporation is ~~not a foreign corporation of this state~~.

~~(b)~~ If the surviving corporation exists under the laws of the District of Columbia or any state or jurisdiction other than this state ~~is a foreign corporation~~:

(1) K.S.A. 17-6702(d) or 17-6708(c), and amendments thereto, as applicable, shall also apply to a merger under this section; and

(2) the terms and conditions of the merger shall obligate the surviving corporation to provide the agreement and take the actions required by K.S.A. 17-6702(d) or 17-6708(c), and amendments thereto, as applicable.

~~(b)~~(c) If the surviving corporation is a ~~Kansas~~ *domestic* corporation, it may change its corporate name by the inclusion of a provision to that effect in the resolution of merger adopted by the directors of the parent corporation and set forth in the certificate of ownership and merger, and upon the effective date of the merger, the name of the corporation shall be changed.

~~(e)~~(d) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section; and K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section in which the surviving

corporation is the subsidiary corporation and is a *domestic* corporation of this state. References to “agreement of merger” in K.S.A. 17-6701(d) and (e), and amendments thereto, shall mean, for purposes of this subsection, the resolution of merger adopted by the board of directors of the parent corporation. Any merger ~~which~~ *that* effects any changes other than those authorized by this section or made applicable by this subsection shall be accomplished under the provisions of K.S.A. 17-6701, 17-6702, 17-6707 or 17-6708, and amendments thereto. K.S.A. 17-6712, and amendments thereto, shall not apply to any merger effected under this section, except as provided in subsection ~~(d)~~ (e).

~~(d)~~(e) In the event all of the stock of a subsidiary ~~Kansas~~ *domestic* corporation party to a merger effected under this section is not owned by the parent corporation immediately prior to the merger, the stockholders of the subsidiary ~~Kansas~~ *domestic* corporation party to the merger shall have appraisal rights as set forth in K.S.A. 17-6712, and amendments thereto.

~~(e)~~ A merger may be effected under this section although one or more of the corporations parties to the merger is a corporation organized under the laws of a jurisdiction other than one of the United States, if the laws of such jurisdiction permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction.

(f) This section shall apply to nonstock corporations if the parent corporation is such a corporation and is the surviving corporation of the merger, except that references to the directors of the parent corporation shall be deemed to be references to members of the governing body of the parent corporation, and references to the board of directors of the parent corporation shall be deemed to be references to the governing body of the parent corporation.

(g) Nothing in this section shall be deemed to authorize the merger of a corporation with a charitable nonstock corporation, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired.

Sec. 32. K.S.A. 2022 Supp. 17-6705 is hereby amended to read as follows: 17-6705. (a) Any two or more nonstock corporations of this state, whether or not organized for profit, may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* nonstock corporation, whether or not organized for profit, formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) Subject to subsection (d), the governing body of each corporation ~~which~~ *that* desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation, *and the agreement shall be executed by an authorized person in accordance with K.S.A. 2022*

Supp. 17-7908, and amendments thereto, and if the agreement is filed, it shall be filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto. The agreement shall state:

(1) The terms and conditions of the merger or consolidation;
 (2) the mode of carrying the same into effect;
 (3) ~~such other provisions or facts required or permitted by this code to be stated in articles of incorporation for nonstock corporations as can be stated in the case of a merger or consolidation, stated in such altered form as the circumstances of the case require~~ *in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*

(4) *in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as set forth in an attachment to the agreement;*

(5) the manner, if any, of converting the memberships or membership interests of each of the constituent corporations into memberships or membership interests of the corporation surviving or resulting from the merger or consolidation, or of cancelling some or all of such memberships or membership interests, *and, if any memberships or membership interests of any of the constituent corporations are not to remain outstanding, to be converted solely into memberships or membership interests of the surviving or resulting corporation, or to be cancelled, the cash, property, rights or securities of any other corporation or entity that the holders of such memberships or membership interests are to receive in exchange for, or upon conversion of, such memberships or membership interests and such cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of memberships or membership interests of the surviving or resulting corporation; and*

~~(5)~~(6) *such other details or provisions as are deemed desirable, including, but not limited to, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term "Facts," as used*

in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) Subject to subsection (d), the agreement shall be submitted to the members of each constituent corporation at an annual or special meeting thereof for the purpose of acting on the agreement. Due notice of the time, place and purpose of the meeting shall be ~~mailed~~ *given* to each member of each such corporation who has the right to vote for the election of the members of the governing body of the corporation and to each other member who is entitled to vote on the merger under the articles of incorporation or ~~the~~ bylaws of such corporation, at the member's *postal* address as it appears on the records of the corporation, at least 20 days prior to the date of the meeting. The notice shall contain a copy of the agreement or a brief summary thereof. At the meeting the agreement shall be considered and a vote, in person or by proxy, taken for the adoption or rejection of the agreement. The following vote shall be required for the adoption of the agreement: (1) A majority of the members of each corporation entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote on the merger under the articles of incorporation or ~~the~~ bylaws of the corporation, except those corporations that are the subject of paragraph (2); or (2) in the case of a nonstock, nonprofit corporation, other than a nonprofit dental service corporation organized and operated under the nonprofit dental service corporation act, ~~cited at K.S.A. 40-19a01 et seq., and amendments thereto,~~ a majority of the members of each corporation entitled to vote for the election of the members of the governing body of the corporation and any other members entitled to vote on the merger under the articles of incorporation or ~~the~~ bylaws of the corporation voting at the meeting. If the agreement is so adopted, that fact shall be certified on the agreement by the officer of each such corporation performing the duties ordinarily performed by the secretary or assistant secretary of a corporation, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement. If the agreement ~~shall be so~~ is adopted and certified by each constituent corporation in accordance with this section, it shall be executed and filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. The provisions set forth in the last sentence of K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger under this section, and the reference ~~therein in such sentence~~ to "stockholder" shall be ~~deemed to~~ include "member" ~~hereunder~~ *as used in this section*.

(d) Notwithstanding subsection (b) or (c), if under the articles of incorporation or ~~the~~ bylaws of any one or more of the constituent cor-

porations, there shall be no members who have the right to vote for the election of the members of the governing body of the corporation, or for the merger, other than the members of the governing body themselves, no further action by the governing body or the members of such corporation shall be necessary if the resolution approving an agreement of merger or consolidation has been adopted by a majority of all the members of the governing body thereof, and that fact shall be certified on the agreement in the same manner as is provided in the case of the adoption of the agreement by the vote of the members of a corporation, except that such certification on the agreement shall not be required if a certificate of merger or consolidation is filed in lieu of filing the agreement, and thereafter the same procedure shall be followed to consummate the merger or consolidation.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(f) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section.

(g) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a nonstock corporation if such charitable nonstock corporation would thereby have its charitable status lost or impaired, but a nonstock corporation may be merged into a charitable nonstock corporation ~~which~~ *that* shall continue as the surviving corporation.

Sec. 33. K.S.A. 2022 Supp. 17-6706 is hereby amended to read as follows: 17-6706. (a) Any one or more nonstock corporations of this state may merge or consolidate with one or more ~~other nonstock corporations of any other state or states of the United States or of the District of Columbia if the laws of such other state or states or of the District of Columbia permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction~~ *foreign nonstock corporations unless the laws of the jurisdiction or jurisdictions under which such foreign nonstock corporation or corporations are organized prohibit such merger or consolidation.* The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* nonstock corporation formed by the consolidation, which may be a corporation of the ~~state~~ *jurisdiction of incorporation organization* of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. ~~In addition, any~~

~~one or more~~ As used in this subsection, “foreign nonstock corporation” means a corporation organized under the laws of any jurisdiction other than ~~one of the United States~~ may merge or consolidate with ~~one or more nonstock corporations of this state~~ if the surviving or resulting corporation will be a corporation of this state, and if the laws under which the other corporation or corporations are formed permit a corporation of such jurisdiction to merge with a corporation of another jurisdiction ~~this state~~.

(b) All the constituent corporations shall enter into an agreement of merger or consolidation. The agreement shall state:

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;
- (3) *in the case of a merger in which the surviving corporation is a domestic corporation, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*

(4) *in the case of a consolidation in which the resulting corporation is a domestic corporation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;*

(5) *the manner, if any, of converting the memberships or membership interests of each of the constituent corporations into memberships or membership interests of the corporation surviving or resulting from such the merger or consolidation, or of cancelling some or all of such memberships or membership interests, and, if any memberships or membership interests of any of the constituent corporations are not to remain outstanding, to be converted solely into memberships or membership interests of the surviving or resulting corporation or to be cancelled, the cash, property, rights or securities of any other corporation or entity that the holders of such memberships or membership interests are to receive in exchange for, or upon conversion of, such memberships or membership interests and such cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of memberships or membership interests of the surviving or resulting corporation;*

~~(4)(6)~~ such other details ~~and~~ or provisions as ~~shall be~~ are deemed desirable, including, without limiting the generality of this subsection, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto; and

~~(5)~~(7) such other provisions or facts as shall ~~then~~ be required to be ~~stated in articles of incorporation set forth in an agreement of merger or consolidation, including any provision for amendment of the articles of incorporation, or equivalent document, of a surviving foreign nonstock corporation by the laws of the state which are stated in the agreement to be the laws that shall govern the surviving or resulting corporation and that can be stated in the case of a merger or consolidation~~ *each jurisdiction under which any of the foreign nonstock corporations are organized.* Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, if the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. The term “Facts,” as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement shall be adopted, approved, certified and executed by each of the constituent corporations in accordance with the laws under which it is ~~formed~~ *organized* and, in the case of a ~~Kansas~~ *domestic* corporation, in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6705, and amendments thereto, with respect to the merger of nonstock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of K.S.A. 17-6702(c), and amendments thereto, shall apply to a merger under this section, and the reference ~~therein in such sentence~~ to “stockholder” shall be ~~deemed to include “member” hereunder~~ *as used in this section.*

(d) If the corporation surviving or resulting from the merger or consolidation is ~~to be governed by the laws of any state other than this state~~ *a foreign nonstock corporation*, it shall agree that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent *domestic* corporation of this state, as well as for enforcement of any obligation of the surviving or resulting corporation arising from the merger or consolidation and shall irrevocably appoint the secretary of state as its agent to accept service of process in any suit or other proceedings and shall specify the *postal* address to which a copy of such process shall be mailed by the secretary of state. Process may be served upon the secretary of state under this subsection by means of electronic transmission but only as prescribed by the secretary of state. The secretary of state is authorized to issue such rules and regulations with respect to such service as the secretary of state deems necessary or appropriate. In the event of such service upon the secretary of state in accordance with this subsection, the secretary of state shall ~~forthwith~~ *immediately* notify

such surviving or resulting corporation thereof by letter, directed to such corporation at its address so specified, unless such surviving or resulting corporation shall have designated in writing to the secretary of state a different address for such purpose, in which case it shall be mailed to the last address so designated. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served upon the secretary of state. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being made pursuant to this subsection, and to pay the secretary of state the sum of ~~\$40~~ \$50 for the use of the state, ~~which~~. *Such* sum and any administrative fees shall be taxed as a part of the costs in the proceeding if the plaintiff ~~shall prevail therein~~ *prevails*. The secretary of state shall maintain a record of any such service in a manner deemed appropriate by the secretary. The secretary of state shall not be required to retain such information for a period longer than five years from receipt of the service of process.

(e) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section, if the corporation surviving the merger is a *domestic corporation of this state*.

(f) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(g) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a nonstock corporation, if the charitable status of such charitable nonstock corporation would thereby be lost or impaired, but a nonstock corporation may be merged into a charitable nonstock corporation ~~which~~ *that* shall continue as the surviving corporation.

Sec. 34. K.S.A. 2022 Supp. 17-6707 is hereby amended to read as follows: 17-6707. (a) Any one or more nonstock corporations of this state, whether or not organized for profit, may merge or consolidate with one or more stock corporations of this state, whether or not organized for profit. The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a new *resulting* corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving constituent corporation or the ~~new~~ *resulting* corporation may be orga-

nized for profit or not organized for profit and may be a stock corporation or a nonstock corporation.

(b) The board of directors of each stock corporation ~~which~~ *that* desires to merge or consolidate and the governing body of each nonstock corporation ~~which~~ *that* desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

(1) The terms and conditions of the merger or consolidation;

(2) the mode of carrying the same into effect;

(3) ~~such other provisions or facts required or permitted by this code to be stated in articles of incorporation as can be stated in the case of a merger or consolidation, stated in such altered form as the circumstances of the case require~~ *in the case of a merger, such amendments or changes in the articles of incorporation of the surviving corporation as are desired to be effected by the merger, which may amend and restate the articles of incorporation of the surviving corporation in its entirety, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be its articles of incorporation;*

(4) *in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the agreement;*

(5) the manner, if any, of converting the shares of stock of a stock corporation and the memberships or membership interests of a nonstock corporation into shares or other securities of a stock corporation or memberships or membership interests of a nonstock corporation surviving or resulting from such merger or consolidation or of cancelling some or all of such shares or memberships or membership interests, and, if any shares of any such stock corporation or memberships or membership interests of any such nonstock corporation are not to remain outstanding, to be converted solely into shares or other securities of the stock corporation or memberships or membership interests of the nonstock corporation surviving or resulting from such merger or consolidation or to be cancelled, the cash, property, rights or securities of any other corporation or entity ~~which~~ *that* the holders of shares of any such stock corporation or memberships or membership interests of any such nonstock corporation are to receive in exchange for, or upon conversion of such shares or memberships or membership interests, and the surrender of any certificates evidencing them, ~~which~~ *and such* cash, property, rights or securities of any other corporation or entity may be in addition to or in lieu of shares or other securities of any stock corporation or memberships or membership interests of any nonstock corporation surviving or resulting from such merger or consolidation; and

(5)(6) such other details or provisions as are deemed desirable, *including, without limiting the generality of this subsection, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, rights or other securities of the surviving or resulting corporation or of any other corporation or entity the shares, rights or other securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto, consistent with K.S.A. 17-6405, and amendments thereto.*

In such merger or consolidation, the memberships or membership interests of a constituent nonstock corporation may be treated in various ways so as to convert such memberships or membership interests into interests of value, other than shares of stock, in the surviving or resulting stock corporation or into shares of stock in the surviving or resulting stock corporation, voting or nonvoting, or into creditor interests or any other interests of value equivalent to their memberships or membership interests in their nonstock corporation. The voting rights of members of a constituent nonstock corporation need not be considered an element of value in measuring the reasonable equivalence of the value of the interests received in the surviving or resulting stock corporation by members of a constituent nonstock corporation, nor need the voting rights of shares of stock in a constituent stock corporation be considered as an element of value in measuring the reasonable equivalence of the value of the interests in the surviving or resulting nonstock corporation received by stockholders of a constituent stock corporation, and the voting or nonvoting shares of a stock corporation may be converted into any type of membership or membership interest, however designated, creditor interests or participating interests, in the nonstock corporation surviving or resulting from such merger or consolidation of a stock corporation and a nonstock corporation. Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, ~~provided that~~ *if* the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation. ~~The term~~ “Facts,” as used in the preceding sentence, includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.

(c) The agreement required by subsection (b), in the case of each constituent stock corporation, shall be adopted, approved, certified and executed by each constituent corporation in the same manner as is provided in K.S.A. 17-6701, and amendments thereto, and, in the case of each constituent nonstock corporation, shall be adopted, approved, certified and executed by each of such constituent corporations in the same manner as is provided in K.S.A. 17-6705, and amendments thereto. The

agreement shall be filed and shall become effective for all purposes of the laws of this state when and as provided in K.S.A. 17-6701, and amendments thereto, with respect to the merger of stock corporations of this state. Insofar as they may be applicable, the provisions set forth in the last sentence of K.S.A. 17-6701(c), and amendments thereto, shall apply to a merger under this section, and the reference ~~therein in such sentence to “stockholder” shall be deemed to include “member” hereunder as used in this section.~~

(d) K.S.A. 17-6701(e), and amendments thereto, shall apply to a merger under this section, ~~if the surviving corporation is a corporation of this state,~~ and K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock corporation participating in a merger under this section.

(e) K.S.A. 17-6701(d), and amendments thereto, shall apply to a merger under this section, except that, for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares of a constituent corporation shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests, as applicable, respectively.

(f) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired, but a stock corporation may be merged into a charitable nonstock corporation ~~which~~ *that* shall continue as the surviving corporation.

Sec. 35. K.S.A. 2022 Supp. 17-6708 is hereby amended to read as follows: 17-6708. (a) Any one or more corporations of this state, whether stock or nonstock corporations and whether or not organized for profit, may merge or consolidate with one or more ~~other corporations of any other state or states of the United States or of the District of Columbia,~~ ~~whether stock or nonstock corporations and whether or not organized for profit, if the laws under which the other corporation or corporations are formed shall permit such a corporation of such jurisdiction to merge with a corporation of another jurisdiction~~ *foreign corporations unless the laws of the jurisdiction or jurisdictions under which such foreign corporation or corporations are organized prohibit such merger or consolidation.* The constituent corporations may merge into a single *surviving* corporation, which may be any one of the constituent corporations, or they may consolidate into a ~~new resulting~~ *new resulting* corporation formed by the consolidation, which may be a corporation of the ~~place jurisdiction of incorporation~~ *organization* of any one of the constituent corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. The surviving or ~~new resulting~~ corporation may be either a *domestic or foreign* stock corporation or a *domestic*

or foreign nonstock corporation, as shall be specified in the agreement of merger or consolidation required by subsection (b). For purposes of this section, “foreign corporation” includes a stock or nonstock corporation organized under the laws of any jurisdiction other than this state.

(b) The method and procedure to be followed by the constituent corporations so merging or consolidating shall be as prescribed in K.S.A. 17-6707, and amendments thereto, in the case of ~~Kansas~~ domestic corporations. The agreement of merger or consolidation shall be as provided in K.S.A. 17-6707, and amendments thereto, and also set forth such other ~~matters or provisions or facts as shall then~~ be required to be set forth in an agreement of merger or consolidation, including any provision for amendment of the articles of incorporation, or equivalent document, of a surviving foreign corporation, by the laws of the state which jurisdiction or jurisdictions that are stated in the agreement to be the laws under which shall govern the surviving or resulting the foreign corporation and that can be stated in the case of a merger or consolidation or corporations are organized. The agreement, in the case of foreign corporations, shall be adopted, approved, certified and executed by each of the constituent foreign corporations in accordance with the laws under which each is formed organized.

(c) The requirements of K.S.A. 17-6702(d), and amendments thereto, as to the appointment of the secretary of state to receive process and the manner of serving the same in the event the surviving or new resulting corporation is to be governed by the laws of any other state a foreign corporation shall also apply to mergers or consolidations effected under this section and such appointment, if any, shall be included in the certificate of merger or consolidation, if any, filed pursuant to subsection (b). K.S.A. 17-6701(e), and amendments thereto, shall apply to mergers effected under this section if the surviving corporation is a domestic corporation of this state. K.S.A. 17-6701(d), and amendments thereto, shall apply to any constituent corporation participating in a merger or consolidation under this section, except that for purposes of a constituent nonstock corporation, references to the board of directors, to stockholders, and to shares shall be deemed to be references to the governing body of the corporation, to members of the corporation, and to memberships or membership interests of the corporation, as applicable, respectively, and K.S.A. 17-6701(f), and amendments thereto, shall apply to any constituent stock domestic corporation participating in a merger under this section.

(d) Nothing in this section shall be deemed to authorize the merger of a charitable nonstock corporation into a stock corporation, if the charitable status of such nonstock corporation would thereby be lost or impaired; but a stock corporation may be merged into a charitable nonstock corporation which that shall continue as the surviving corporation.

Sec. 36. K.S.A. 2022 Supp. 17-6712 is hereby amended to read as follows: 17-6712. (a) Any stockholder of a *domestic* corporation ~~of this state~~ who holds shares of stock on the date of the making of a demand pursuant to subsection (d) with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto, shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock under the circumstances described in subsections (b) and (c). As used in this section, ~~the word~~: "Stockholder" means a holder of record of stock in a corporation; ~~the words~~ "stock" and "share" mean and include what is ordinarily meant by those words; ~~and the words~~ "depository receipt" ~~mean~~ means a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation, ~~which stock that~~ is deposited with the depository.

(b) Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to K.S.A. 17-6701, ~~and amendments thereto~~, other than a merger effected pursuant to K.S.A. 17-6701(g), ~~and amendments thereto~~, and, subject to subsection (b)(3), K.S.A. 17-7601(h), 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto:

(1) ~~Except as expressly provided in K.S.A. 2022 Supp. 17-72a03, and amendments thereto~~, that no appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of the meeting of stockholders to act upon the agreement of merger or consolidation, *or in the case of a merger pursuant to K.S.A. 17-7601(h), and amendments thereto, as of immediately prior to the execution of the agreement of merger*, were either:

(A) Listed on a national securities exchange; or

(B) held of record by more than 2,000 holders, except that no appraisal rights shall be available for any shares of stock of the constituent corporation surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in K.S.A. 17-6701(f), and amendments thereto.

(2) Notwithstanding subsection (b)(1), appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to K.S.A. 17-6701, 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto, to accept for such stock anything except:

(A) Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

(B) shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock, or depository receipts in respect thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

(C) cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A) and (B); or

(D) any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A), (B) and (C).

(3) In the event all of the stock of a subsidiary ~~Kansas~~ *domestic* corporation party to a merger effected under K.S.A. ~~17-6701(h)~~ or 17-6703, and amendments thereto, is not owned by the parent immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary ~~Kansas~~ *domestic* corporation.

(4) *This paragraph shall apply only with respect to a merger or consolidation consummated pursuant to an agreement entered into or resolutions of the board of directors adopted, as applicable, before July 1, 2023.* In the event of an amendment to a corporation's articles of incorporation contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, appraisal rights shall be available as contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, and the procedures of this section, including those set forth in subsections (d) and (e), shall apply as nearly as practicable, with the word "amendment" substituted for the words "merger or consolidation," and the word "corporation" substituted for the words "constituent corporation" or "surviving or resulting corporation."

(c) Any corporation may provide in its articles of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its articles of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the articles of incorporation contain such a provision, the ~~procedures~~ *provisions* of this section, including those set forth in subsections (d) ~~and~~, (e), ~~and~~ (g) shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record date for notice of such meeting, or such members who received notice in accordance with K.S.A. 17-6705, and amendments thereto, with respect

to shares for which appraisal rights are available pursuant to subsection (b) or (c) that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Each stockholder electing to demand the appraisal of such stockholder's shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder's shares. *A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, expressly designated for that purpose in such notice.* Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder's shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand as ~~herein~~ *provided in this subsection.* Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) if the merger or consolidation was approved pursuant to K.S.A. 17-6518, 17-6701(h) or 17-6703, and amendments thereto, then, either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall, also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of ~~mailing of~~ *giving* such notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, within the later of the consummation of the ~~tender or exchange~~ offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days after the date of ~~mailing of~~ *giving* such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder's shares. *A demand may be delivered to the corporation by electronic trans-*

mission if directed to an information processing system, if any, designated for that purpose in such notice. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either: (A) Each such constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation; or (B) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date; ~~provided, however, that~~ If such second notice is sent more than 20 days following the sending of the first notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, later than the later of the consummation of the ~~tender or exchange~~ offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated ~~therein~~ *in such affidavit.* For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given; ~~provided, that~~ If the notice is given on or after the effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the ~~day on which~~ *when* the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) and who is otherwise entitled to appraisal rights, may commence an appraisal proceeding by filing a petition in the district court demanding a determination of the value of the stock of all such stockholders. Notwithstanding the ~~foregoing~~ *provisions of this subsection*, at any time within 60 days after the effective date of the merger or consolidation, any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party shall have the right to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has

complied with the requirements of subsections (a) and (d), upon ~~written~~ request *given in writing, or by electronic transmission directed to an information processing system, if any, expressly designated for that purpose in the notice of appraisal*, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation ~~and, or in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, the aggregate number of shares, other than any excluded stock, as defined in K.S.A. 17-6701(h)(2), and amendments thereto, that were the subject of, and were not tendered into, and accepted for purchase or exchange in, the offer referred to in K.S.A. 17-6701(h)(1)(B), and amendments thereto, and, in either case,~~ with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such ~~written~~ statement shall be ~~mailed~~ *given* to the stockholder within 10 days after such stockholder's ~~written~~ request for such a statement is received by the surviving or resulting corporation or within 10 days after expiration of the period for delivery of demands for appraisal under subsection (d), whichever is later. Notwithstanding subsection (a), a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this subsection.

(f) Upon the filing of any such petition by a stockholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which shall within 20 days after such service file in the office of the clerk of the court ~~in which~~ *where* the petition was filed a duly verified list containing the names and *postal* addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the surviving or resulting corporation. If the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such a duly verified list. The clerk of the court, if so ordered by the court, shall give notice of the time and place fixed for the hearing of such petition by registered or certified mail to the surviving or resulting corporation and to the stockholders shown on the list at the addresses ~~therein~~ *stated in the list*. Such notice shall also be given by one or more publications at least one week before the day of the hearing, in a newspaper of general circulation published in the county ~~in which~~ *where* the court is located or such publication as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court, and the costs thereof shall be borne by the surviving or resulting corporation.

(g) (1) At the hearing on such petition, the court shall determine the stockholders who have complied with this section and who have become

entitled to appraisal rights. The court may require the stockholders who have demanded an appraisal for their shares and who hold stock represented by certificates to submit their certificates of stock to the clerk of the court for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with such direction, the court may dismiss the proceedings as to such stockholder.

(2) *This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. If immediately before the merger or consolidation the shares of the class or series of stock of the constituent corporation as to which appraisal rights are available were listed on a national securities exchange, the court shall dismiss the proceedings as to all holders of such shares who are otherwise entitled to appraisal rights unless:*

(A) *The total number of shares entitled to appraisal exceeds 1% of the outstanding shares of the class or series eligible for appraisal;*

(B) *the value of the consideration provided in the merger or consolidation for such total number of shares exceeds \$1,000,000; or*

(C) *the merger was approved pursuant to K.S.A. 17-6703, and amendments thereto.*

(h) (1) After the court determines the stockholders entitled to an appraisal, the appraisal proceeding shall be conducted in accordance with the rules of the district court, including any rules specifically governing appraisal proceedings. Through such proceeding the court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value, the court shall take into account all relevant factors. Unless the court in its discretion determines otherwise for good cause shown, *and except as provided in this subsection*, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the federal reserve discount rate, including any surcharge, as established from time to time during the period between the effective date of the merger and the date of payment of the judgment.

(2) *This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. At any time before the entry of judgment in the proceedings, the surviving corporation may pay to each stockholder entitled to appraisal an amount in cash, in which case interest shall accrue thereafter as provided in this paragraph only upon the sum of: (A) The difference, if any, between the amount so paid and the fair market value of*

the shares as determined by the court; and (B) interest previously accrued unless paid at that time. Upon application by the surviving or resulting corporation or by any stockholder entitled to participate in the appraisal proceeding, the court may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the stockholders entitled to an appraisal. Any stockholder whose name appears on the list filed by the surviving or resulting corporation pursuant to subsection (f) and who has submitted such stockholder's certificates of stock to the clerk of the court, if such is required, may participate fully in all proceedings until it is finally determined that such stockholder is not entitled to appraisal rights under this section.

(i) The court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the stockholders entitled thereto. Payment shall be so made to each such stockholder, in the case of holders of uncertificated stock ~~forthwith~~ *immediately*, and the case of holders of shares represented by certificates upon the surrender to the corporation of the certificates representing such stock. The court's decree may be enforced as other decrees in the district court may be enforced, whether such surviving or resulting corporation be a *domestic* corporation ~~of this state~~ or of any state.

(j) The costs of the proceeding may be determined by the court and taxed upon the parties as the court deems equitable in the circumstances. Upon application of a stockholder, the court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorney fees and the fees and expenses of experts, to be charged pro rata against the value of all the shares entitled to an appraisal.

(k) From and after the effective date of the merger or consolidation, no stockholder who has demanded appraisal rights as provided in subsection (d) shall be entitled to vote such stock for any purpose or to receive payment of dividends or other distributions on the stock, except dividends or other distributions payable to stockholders of record at a date ~~which~~ *that* is prior to the effective date of the merger or consolidation; ~~provided, however,~~ *except* that if no petition for an appraisal shall be filed within the time provided in subsection (e), or if such stockholder shall deliver to the surviving or resulting corporation a written withdrawal of such stockholder's demand for an appraisal and an acceptance of the merger or consolidation, either within 60 days after the effective date of the merger or consolidation as provided in subsection (e) or thereafter with the written approval of the corporation, then the right of such stockholder to an appraisal shall cease. Notwithstanding the ~~foregoing~~ *provisions of this subsection*, no appraisal proceeding in the district court shall be dismissed as to any stockholder without the approval of the court, and such

approval may be conditioned upon such terms as the court deems just, except that this provision shall not affect the right of any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within 60 days after the effective date of the merger or consolidation, as set forth in subsection (e).

(l) The shares of the surviving or resulting corporation to which the shares of such objecting stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

Sec. 37. On and after January 1, 2024, K.S.A. 2022 Supp. 17-6712, as amended by section 36 of this act, is hereby amended to read as follows: 17-6712. (a) Any stockholder of a domestic corporation who holds shares of stock on the date of the making of a demand pursuant to subsection (d) with respect to such shares, who continuously holds such shares through the effective date of the merger or consolidation, who has otherwise complied with subsection (d) and who has neither voted in favor of the merger or consolidation nor consented thereto in writing pursuant to K.S.A. 17-6518, and amendments thereto, shall be entitled to an appraisal by the district court of the fair value of the stockholder's shares of stock under the circumstances described in subsections (b) and (c). As used in this section: "Stockholder" means a holder of record of stock in a corporation; "stock" and "share" mean and include what is ordinarily meant by those words; and "depository receipt" means a receipt or other instrument issued by a depository representing an interest in one or more shares, or fractions thereof, solely of stock of a corporation that is deposited with the depository.

(b) Appraisal rights shall be available for the shares of any class or series of stock of a constituent corporation in a merger or consolidation to be effected pursuant to K.S.A. 17-6701, other than a merger effected pursuant to K.S.A. 17-6701(g), and amendments thereto, and 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto:

(1) Except that no appraisal rights under this section shall be available for the shares of any class or series of stock, which stock, or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of the meeting of stockholders to act upon the agreement of merger or consolidation, or in the case of a merger pursuant to K.S.A. 17-6701(h), and amendments thereto, as of immediately prior to the execution of the agreement of merger, were either:

(A) Listed on a national securities exchange; or

(B) held of record by more than 2,000 holders, except that no appraisal rights shall be available for any shares of stock of the constituent corpo-

ration surviving a merger if the merger did not require for its approval the vote of the stockholders of the surviving corporation as provided in K.S.A. 17-6701(f), and amendments thereto.

(2) Notwithstanding subsection (b)(1), appraisal rights under this section shall be available for the shares of any class or series of stock of a constituent corporation if the holders thereof are required by the terms of an agreement of merger or consolidation pursuant to K.S.A. 17-6701, 17-6702, 17-6705, 17-6706, 17-6707 and 17-6708, and amendments thereto, to accept for such stock anything except:

(A) Shares of stock of the corporation surviving or resulting from such merger or consolidation, or depository receipts in respect thereof;

(B) shares of stock of any other corporation, or depository receipts in respect thereof, which shares of stock, or depository receipts in respect thereof, or depository receipts at the effective date of the merger or consolidation will be either listed on a national securities exchange or held of record by more than 2,000 holders;

(C) cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A) and (B); or

(D) any combination of the shares of stock, depository receipts and cash in lieu of fractional shares or fractional depository receipts described in subparagraphs (A), (B) and (C).

(3) In the event all of the stock of a subsidiary domestic corporation party to a merger effected under K.S.A. 17-6703, and amendments thereto, is not owned by the parent immediately prior to the merger, appraisal rights shall be available for the shares of the subsidiary domestic corporation.

~~(4) This paragraph shall apply only with respect to a merger or consolidation consummated pursuant to an agreement entered into or resolutions of the board of directors adopted, as applicable, before July 1, 2023. In the event of an amendment to a corporation's articles of incorporation contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, appraisal rights shall be available as contemplated by K.S.A. 2022 Supp. 17-72a03, and amendments thereto, and the procedures of this section, including those set forth in subsections (d) and (e), shall apply as nearly as practicable, with the word "amendment" substituted for the words "merger or consolidation," and the word "corporation" substituted for the words "constituent corporation" or "surviving or resulting corporation."~~

(c) Any corporation may provide in its articles of incorporation that appraisal rights under this section shall be available for the shares of any class or series of its stock as a result of an amendment to its articles of incorporation, any merger or consolidation in which the corporation is a constituent corporation or the sale of all or substantially all of the assets of the corporation. If the articles of incorporation contain such a provision,

the provisions of this section, including those set forth in subsections (d), (e) and (g) shall apply as nearly as is practicable.

(d) Appraisal rights shall be perfected as follows:

(1) If a proposed merger or consolidation for which appraisal rights are provided under this section is to be submitted for approval at a meeting of stockholders, the corporation, not less than 20 days prior to the meeting, shall notify each of its stockholders who was such on the record date for notice of such meeting, or such members who received notice in accordance with K.S.A. 17-6705, and amendments thereto, with respect to shares for which appraisal rights are available pursuant to subsection (b) or (c) that appraisal rights are available for any or all of the shares of the constituent corporations, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Each stockholder electing to demand the appraisal of such stockholder's shares shall deliver to the corporation, before the taking of the vote on the merger or consolidation, a written demand for appraisal of such stockholder's shares. A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, expressly designated for that purpose in such notice. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such stockholder's shares. A proxy or vote against the merger or consolidation shall not constitute such a demand. A stockholder electing to take such action must do so by a separate written demand as provided in this subsection. Within 10 days after the effective date of such merger or consolidation, the surviving or resulting corporation shall notify each stockholder of each constituent corporation who has complied with this subsection and has not voted in favor of or consented to the merger or consolidation of the date that the merger or consolidation has become effective; or

(2) if the merger or consolidation was approved pursuant to K.S.A. 17-6518, 17-6701(h) or 17-6703, and amendments thereto, then, either a constituent corporation before the effective date of the merger or consolidation or the surviving or resulting corporation within 10 days thereafter shall notify each of the holders of any class or series of stock of such constituent corporation who are entitled to appraisal rights of the approval of the merger or consolidation and that appraisal rights are available for any or all shares of such class or series of stock of such constituent corporation, and shall include in such notice a copy of this section and, if one of the constituent corporations is a nonstock corporation, a copy of K.S.A. 2022 Supp. 17-6014, and amendments thereto. Such notice may, and, if given on or after the effective date of the merger or consolidation, shall,

also notify such stockholders of the effective date of the merger or consolidation. Any stockholder entitled to appraisal rights may, within 20 days after the date of giving such notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, within the later of the consummation of the offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days after the date of giving such notice, demand in writing from the surviving or resulting corporation the appraisal of such holder's shares. A demand may be delivered to the corporation by electronic transmission if directed to an information processing system, if any, designated for that purpose in such notice. Such demand will be sufficient if it reasonably informs the corporation of the identity of the stockholder and that the stockholder intends thereby to demand the appraisal of such holder's shares. If such notice did not notify stockholders of the effective date of the merger or consolidation, either: (A) Each such constituent corporation shall send a second notice before the effective date of the merger or consolidation notifying each of the holders of any class or series of stock of such constituent corporation that are entitled to appraisal rights of the effective date of the merger or consolidation; or (B) the surviving or resulting corporation shall send such a second notice to all such holders on or within 10 days after such effective date. If such second notice is sent more than 20 days following the sending of the first notice or, in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, later than the later of the consummation of the offer contemplated by K.S.A. 17-6701(h), and amendments thereto, and 20 days following the sending of the first notice, such second notice need only be sent to each stockholder who is entitled to appraisal rights and who has demanded appraisal of such holder's shares in accordance with this subsection. An affidavit of the secretary or assistant secretary or of the transfer agent of the corporation that is required to give either notice that such notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated in such affidavit. For purposes of determining the stockholders entitled to receive either notice, each constituent corporation may fix, in advance, a record date that shall be not more than 10 days prior to the date the notice is given. If the notice is given on or after the effective date of the merger or consolidation, the record date shall be such effective date. If no record date is fixed and the notice is given prior to the effective date, the record date shall be the close of business on the day next preceding the day when the notice is given.

(e) Within 120 days after the effective date of the merger or consolidation, the surviving or resulting corporation or any stockholder who has complied with subsections (a) and (d) and who is otherwise entitled to appraisal rights, may commence an appraisal proceeding by filing a petition in the district court demanding a determination of the value of the

stock of all such stockholders. Notwithstanding the provisions of this subsection, at any time within 60 days after the effective date of the merger or consolidation, any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party shall have the right to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation. Within 120 days after the effective date of the merger or consolidation, any stockholder who has complied with the requirements of subsections (a) and (d), upon request given in writing, or by electronic transmission directed to an information processing system, if any, expressly designated for that purpose in the notice of appraisal, shall be entitled to receive from the corporation surviving the merger or resulting from the consolidation a statement setting forth the aggregate number of shares not voted in favor of the merger or consolidation, or in the case of a merger approved pursuant to K.S.A. 17-6701(h), and amendments thereto, the aggregate number of shares, other than any excluded stock, as defined in K.S.A. 17-6701(h)(2), and amendments thereto, that were the subject of, and were not tendered into, and accepted for purchase or exchange in, the offer referred to in K.S.A. 17-6701(h)(1)(B), and amendments thereto, and, in either case, with respect to which demands for appraisal have been received and the aggregate number of holders of such shares. Such statement shall be given to the stockholder within 10 days after such stockholder's request for such a statement is received by the surviving or resulting corporation or within 10 days after expiration of the period for delivery of demands for appraisal under subsection (d), whichever is later. Notwithstanding subsection (a), a person who is the beneficial owner of shares of such stock held either in a voting trust or by a nominee on behalf of such person may, in such person's own name, file a petition or request from the corporation the statement described in this subsection.

(f) Upon the filing of any such petition by a stockholder, service of a copy thereof shall be made upon the surviving or resulting corporation, which shall within 20 days after such service file in the office of the clerk of the court where the petition was filed a duly verified list containing the names and postal addresses of all stockholders who have demanded payment for their shares and with whom agreements as to the value of their shares have not been reached by the surviving or resulting corporation. If the petition shall be filed by the surviving or resulting corporation, the petition shall be accompanied by such a duly verified list. The clerk of the court, if so ordered by the court, shall give notice of the time and place fixed for the hearing of such petition by registered or certified mail to the surviving or resulting corporation and to the stockholders shown on the list at the addresses stated in the list. Such notice shall also be given by one or more publications at least one week before the

day of the hearing, in a newspaper of general circulation published in the county where the court is located or such publication as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court, and the costs thereof shall be borne by the surviving or resulting corporation.

(g) (1) At the hearing on such petition, the court shall determine the stockholders who have complied with this section and who have become entitled to appraisal rights. The court may require the stockholders who have demanded an appraisal for their shares and who hold stock represented by certificates to submit their certificates of stock to the clerk of the court for notation thereon of the pendency of the appraisal proceedings; and if any stockholder fails to comply with such direction, the court may dismiss the proceedings as to such stockholder.

(2) This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. If immediately before the merger or consolidation the shares of the class or series of stock of the constituent corporation as to which appraisal rights are available were listed on a national securities exchange, the court shall dismiss the proceedings as to all holders of such shares who are otherwise entitled to appraisal rights unless:

(A) The total number of shares entitled to appraisal exceeds 1% of the outstanding shares of the class or series eligible for appraisal;

(B) the value of the consideration provided in the merger or consolidation for such total number of shares exceeds \$1,000,000; or

(C) the merger was approved pursuant to K.S.A. 17-6703, and amendments thereto.

(h) (1) After the court determines the stockholders entitled to an appraisal, the appraisal proceeding shall be conducted in accordance with the rules of the district court, including any rules specifically governing appraisal proceedings. Through such proceeding the court shall determine the fair value of the shares exclusive of any element of value arising from the accomplishment or expectation of the merger or consolidation, together with interest, if any, to be paid upon the amount determined to be the fair value. In determining such fair value, the court shall take into account all relevant factors. Unless the court in its discretion determines otherwise for good cause shown, and except as provided in this subsection, interest from the effective date of the merger through the date of payment of the judgment shall be compounded quarterly and shall accrue at 5% over the federal reserve discount rate, including any surcharge, as established from time to time during the period between the effective date of the merger and the date of payment of the judgment.

(2) This paragraph shall apply only with respect to transactions consummated pursuant to agreements entered into, resolutions of the board of directors adopted and authorizations provided, in each case as applicable, on or after July 1, 2023. At any time before the entry of judgment in the proceedings, the surviving corporation may pay to each stockholder entitled to appraisal an amount in cash, in which case interest shall accrue thereafter as provided in this paragraph only upon the sum of: (A) The difference, if any, between the amount so paid and the fair market value of the shares as determined by the court; and (B) interest previously accrued unless paid at that time. Upon application by the surviving or resulting corporation or by any stockholder entitled to participate in the appraisal proceeding, the court may, in its discretion, proceed to trial upon the appraisal prior to the final determination of the stockholders entitled to an appraisal. Any stockholder whose name appears on the list filed by the surviving or resulting corporation pursuant to subsection (f) and who has submitted such stockholder's certificates of stock to the clerk of the court, if such is required, may participate fully in all proceedings until it is finally determined that such stockholder is not entitled to appraisal rights under this section.

(i) The court shall direct the payment of the fair value of the shares, together with interest, if any, by the surviving or resulting corporation to the stockholders entitled thereto. Payment shall be so made to each such stockholder, in the case of holders of uncertificated stock immediately, and the case of holders of shares represented by certificates upon the surrender to the corporation of the certificates representing such stock. The court's decree may be enforced as other decrees in the district court may be enforced, whether such surviving or resulting corporation be a domestic corporation or of any state.

(j) The costs of the proceeding may be determined by the court and taxed upon the parties as the court deems equitable in the circumstances. Upon application of a stockholder, the court may order all or a portion of the expenses incurred by any stockholder in connection with the appraisal proceeding, including, without limitation, reasonable attorney fees and the fees and expenses of experts, to be charged pro rata against the value of all the shares entitled to an appraisal.

(k) From and after the effective date of the merger or consolidation, no stockholder who has demanded appraisal rights as provided in subsection (d) shall be entitled to vote such stock for any purpose or to receive payment of dividends or other distributions on the stock, except dividends or other distributions payable to stockholders of record at a date that is prior to the effective date of the merger or consolidation, except that if no petition for an appraisal shall be filed within the time provided in subsection (e), or if such stockholder shall deliver to the surviving or resulting

corporation a written withdrawal of such stockholder's demand for an appraisal and an acceptance of the merger or consolidation, either within 60 days after the effective date of the merger or consolidation as provided in subsection (e) or thereafter with the written approval of the corporation, then the right of such stockholder to an appraisal shall cease. Notwithstanding the provisions of this subsection, no appraisal proceeding in the district court shall be dismissed as to any stockholder without the approval of the court, and such approval may be conditioned upon such terms as the court deems just, except that this provision shall not affect the right of any stockholder who has not commenced an appraisal proceeding or joined that proceeding as a named party to withdraw such stockholder's demand for appraisal and to accept the terms offered upon the merger or consolidation within 60 days after the effective date of the merger or consolidation, as set forth in subsection (e).

(l) The shares of the surviving or resulting corporation to which the shares of such objecting stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting corporation.

Sec. 38. K.S.A. 2022 Supp. 17-6804 is hereby amended to read as follows: 17-6804. (a) If it should be deemed advisable in the judgment of the board of directors of any corporation that it should be dissolved, the board, after the adoption of a resolution to that effect by a majority of the whole board at any meeting called for that purpose, shall cause notice of the adoption of the resolution and of a meeting of stockholders to take action upon the resolution to be mailed given to each stockholder entitled to vote thereon as of the record date for determining the stockholders entitled to notice of the meeting.

(b) At the meeting a vote shall be taken upon the proposed dissolution. If a majority of the outstanding stock of the corporation entitled to vote thereon shall vote for the proposed dissolution, a certificate of dissolution shall be filed with the secretary of state pursuant to subsection (d).

(c) Dissolution of a corporation may also be authorized without action of the directors if all the stockholders entitled to vote thereon shall consent in writing and a certificate of dissolution shall be filed with the secretary of state pursuant to subsection (d).

(d) If dissolution is authorized in accordance with this section, a certificate of dissolution shall be executed and filed, and shall become effective, in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7911, and amendments thereto. Such certificate of dissolution shall set forth:

- (1) The name of the corporation;
- (2) the date dissolution was authorized;
- (3) that the dissolution has been authorized by the board of directors and stockholders of the corporation, in accordance with subsections (a)

and (b), or that the dissolution has been authorized by all of the stockholders of the corporation entitled to vote on a dissolution, in accordance with subsection (c); and

(4) the names and *postal* addresses of the directors and officers of the corporation.

(e) The resolution authorizing a proposed dissolution may provide that notwithstanding authorization or consent to the proposed dissolution by the stockholders, or the members of a nonstock corporation pursuant to K.S.A. 17-6805, and amendments thereto, the board of directors or governing body may abandon such proposed dissolution without further action by the stockholders or members.

(f) Upon a certificate of dissolution becoming effective in accordance with K.S.A. 2022 Supp. 17-7911, and amendments thereto, the corporation shall be dissolved.

(g) (1) If the stockholders of a corporation having only two stockholders, each of which owns 50% of the stock therein, are unable to agree upon the desirability of dissolving the corporation and disposing of the corporate assets, either stockholder may file with the district court a petition stating that ~~it~~ *such stockholder* desires to dissolve the corporation and to dispose of the assets thereof in accordance with a plan to be agreed upon by both stockholders. Such petition shall have attached thereto a copy of the proposed plan of dissolution and distribution and a certificate stating that copies of such petition and plan have been transmitted in writing to the other stockholder and to the directors and officers of such corporation.

(2) Unless both stockholders file with the district court: ~~(1)~~, within three months of the date of the filing of such petition, a certificate stating that they have agreed on such plan, or a modification thereof; and ~~(2)~~ within one year from the date of the filing of such petition, a certificate stating that the distribution provided by such plan has been completed, the court may either:

(A) Dissolve such corporation and, by appointment of one or more receivers with all the powers and title of a receiver appointed under K.S.A. 17-6808, and amendments thereto, may administer and wind up its affairs;

(B) order the redemption of the stock of one of the stockholders on such terms as are just and equitable; or

(C) decline to grant any relief. Either or both of the above periods of time may be extended by agreement of the stockholders, evidenced by a certificate filed with the court prior to the expiration of such period.

Sec. 39. K.S.A. 2022 Supp. 17-6812 is hereby amended to read as follows: 17-6812. (a) *Upon motion by the attorney general*, the district court shall have jurisdiction to revoke or forfeit the articles of incorporation of any corporation for abuse, misuse or nonuse of its corporate powers, priv-

ileges or franchises. The attorney general shall, ~~upon the attorney general's own motion or upon the relation of a proper party,~~ proceed for this purpose by petition in the district court of the county ~~in which~~ *where* the registered office of the corporation is located.

(b) The district court shall have power, by appointment of *trustees*, receivers or otherwise, to administer and wind up the affairs of any corporation whose articles of incorporation shall be revoked or forfeited by any court under ~~any this section of this code or otherwise,~~ and to make such orders and decrees with respect thereto as shall be just and equitable respecting its affairs and assets and the rights of its stockholders and creditors.

(c) No proceeding shall be instituted under this section for nonuse of any corporation's powers, privileges or franchises during the first two years after its incorporation.

Sec. 40. K.S.A. 2022 Supp. 17-7001 is hereby amended to read as follows: 17-7001. (a) At any time prior to the expiration of three years following the dissolution of a corporation pursuant to K.S.A. 17-6804, and amendments thereto, or *such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, or,* at any time prior to the expiration of *three years following the expiration of the time limited for the corporation's existence as provided in its articles of incorporation or* such longer period as the court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, a corporation may revoke the dissolution ~~theretofore~~ effected by it *or restore its articles of incorporation after it has expired of its own limitation* in the following manner:

(1) For purposes of this section, ~~the term~~ "stockholders" ~~shall mean~~ means the stockholders of record on the date the dissolution became effective *or the date of expiration by limitation.*

(2) The board of directors shall adopt a resolution recommending that the dissolution be revoked *in the case of a dissolution or that the articles of incorporation be restored in the case of an expiration by limitation* and directing that the question of the revocation *or restoration* be submitted to a vote at a special meeting of stockholders.

(3) Notice of the special meeting of stockholders shall be given in accordance with K.S.A. 17-6512, and amendments thereto, to each of the stockholders.

(4) At the meeting, a vote of the stockholders shall be taken on a resolution to revoke the dissolution *in the case of a dissolution or to restore the articles of incorporation in the case of an expiration by limitation.* If a majority of the stock of the corporation ~~which~~ *that* was outstanding and entitled to vote upon a dissolution at the time of its dissolution, *in the case of a revocation of dissolution, or that was outstanding and entitled to vote*

upon an amendment to the articles of incorporation to change the period of the corporation's duration at the time of its expiration by limitation, in the case of restoration, shall be voted for the resolution, a certificate of revocation of dissolution or a certificate of restoration shall be executed in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto, which and filed in accordance with K.S.A. 2022 Supp. 17-7910, and amendments thereto. Such certificate shall be specifically designated as a certificate of revocation of dissolution or a certificate of restoration in its heading and shall state:

- (A) The name of the corporation;
- (B) the *postal* address of the corporation's registered office in this state, which shall be stated in accordance with K.S.A. 2022 Supp. 17-7924(c), and amendments thereto, and the name of its resident ~~agreement~~ *agent* at such address;
- (C) the names and respective *postal* addresses of its officers;
- (D) the names and respective *postal* addresses of its directors; and
- (E) that a majority of the stock of the corporation ~~which~~ *that* was outstanding and entitled to vote upon a dissolution at the time of its dissolution have voted in favor of a resolution to revoke the dissolution, *in the case of a revocation of dissolution, or that a majority of the stock of the corporation that was outstanding and entitled to vote upon an amendment to the articles of incorporation to change the period of the corporation's duration at the time of its expiration by limitation, in the case of a restoration, have voted in favor of a resolution to restore the articles of incorporation;* or that, if applicable, in lieu of a meeting and vote of stockholders, the stockholders have given their ~~written~~ consent to the revocation *or restoration* in accordance with K.S.A. 17-6518, and amendments thereto; *and*
- (F) *in the case of a restoration, the new specified date limiting the duration of the corporation's existence or that the corporation shall have perpetual existence.*

(b) Upon the *effective time of filing* in the office of the secretary of state of the certificate of revocation of dissolution *or the certificate of restoration*, the revocation of the dissolution *or the restoration of the corporation* shall become effective and the corporation may again carry on its business.

(c) Upon the ~~filing of the certificate with the secretary of state to which effectiveness of the revocation of the dissolution or the restoration of the corporation as provided in subsection (b) refers,~~ the provisions of K.S.A. 17-6501(c), and amendments thereto, shall govern, and the period of time the corporation was in dissolution *or was expired by limitation* shall be included within the calculation of the 30-day and 13-month periods to which K.S.A. 17-6501(c), and amendments thereto, refers. An election of

directors, however, may be held at the special meeting of stockholders to which subsection (a) refers, and in that event, that meeting of stockholders shall be deemed an annual meeting of stockholders for purposes of K.S.A. 17-6501(c), and amendments thereto.

(d) If, after the dissolution became effective *or after the expiration by limitation*, any other entity identified in K.S.A. 2022 Supp. 17-7918, and amendments thereto, shall have adopted the same name as the corporation, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation, or any foreign covered entity shall have qualified to do business in this state under the same name as the corporation or under a name so nearly similar thereto as not to distinguish it from the corporation, then, in such case, the corporation shall not be reinstated under the same name ~~which~~ *that* it bore when its dissolution became effective *or it expired by limitation*, but shall adopt and be reinstated *or restored* under some other name, and in such case the certificate to be filed under this section shall set forth the name borne by the corporation at the time its dissolution became effective *or it expired by limitation* and the new name under which the corporation is to be reinstated.

(e) Nothing in this section shall be construed to affect the jurisdiction or power of the district court under K.S.A. 17-6808 and 17-6809, and amendments thereto.

(f) At any time prior to the expiration of three years following the dissolution of a nonstock corporation pursuant to K.S.A. 17-6805, and amendments thereto, *or such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto*, or, at any time prior to the expiration of *three years following the expiration of the time limited for a nonstock corporation's existence as provided in its articles of incorporation* or such longer period as the district court may have directed pursuant to K.S.A. 17-6807, and amendments thereto, a nonstock corporation may revoke the dissolution effected by it *or restore its articles of incorporation after it has expired by limitation* in a manner analogous to that by which the dissolution was authorized *or, in the case of a restoration, in the manner in which an amendment to the articles of incorporation to change the period of the corporation's duration would have been authorized at the time of its expiration by limitation*, including: (1) If applicable, a vote of the members entitled to vote, if any, on the dissolution *or the amendment*; and (2) the filing of a certificate of revocation of dissolution *or a certificate of restoration* containing information comparable to that required by subsection (a)(4). Notwithstanding the ~~foregoing~~ *provisions of this subsection*, only subsections (b), (d) and (e) shall apply to nonstock corporations.

Sec. 41. K.S.A. 2022 Supp. 17-7002 is hereby amended to read as follows: 17-7002. (a) As used in this section, ~~the term~~:

(1) “Articles of incorporation” includes the articles of incorporation of a corporation organized under any special act or any law of this state; and

(2) “authority to engage in business” includes the registration of any foreign corporation under K.S.A. 2022 Supp. 17-7931, and amendments thereto.

(b) ~~Except as provided further, any corporation may, at any time before the expiration of the time limited for its existence and any corporation whose articles of incorporation or authority to engage in business has become forfeited or void pursuant to this code and any corporation whose articles of incorporation or authority to engage in business has expired by reason of failure to renew it or whose articles of incorporation or authority to engage in business has been renewed~~ *revived*, but, through failure to comply strictly with the provisions of this code, the validity of whose ~~renewal~~ *revival* has been brought into question, at any time procure an ~~extension, renewal or reinstatement~~ *a revival* of its articles of incorporation, if a domestic corporation, or its authority to engage in business, if a foreign corporation, together with all the rights, franchises, privileges and immunities and subject to all of its duties, debts and liabilities that had been secured or imposed by its original articles of incorporation, and all amendments thereto, or by its authority to engage in business, as the case may be, by complying with the requirements of this section. *This section shall not be applicable to a corporation whose articles of incorporation have been revoked or forfeited pursuant to K.S.A. 17-6812, and amendments thereto.*

(c) ~~The extension, renewal or reinstatement~~ *revival* of the articles of incorporation or authority to engage in business may be procured as *authorized by the board of directors or members of the governing body of the corporation in accordance with subsection (h) and* by executing and filing a *certificate of revival* in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto.

(d) The certificate required by subsection (c) shall state:

(1) ~~The name date of filing of the corporation, which shall be the existing corporation’s original articles of incorporation, the name under which the corporation was originally incorporated, the name of the corporation or at the name it bore when time its articles of incorporation or authority to engage in business expired, except as provided in~~ *became forfeited or void pursuant to this code and the new name under which the corporation is to be revived to the extent required by* subsection (f);

(2) the *postal* address of the corporation’s registered office in this state, which shall be stated in accordance with K.S.A. 2022 Supp. 17-7924(c), and amendments thereto, and the name of its resident agent at such address;

(3) ~~whether or not the renewal, or reinstatement is to be perpetual and, if not perpetual, the time for which the renewal or reinstatement is to~~

continue and, in case of renewal before the expiration of the time limited for its existence, the date when the renewal is to commence, which shall be prior to the date of the expiration of the old articles of incorporation or authority to engage in business which it is desired to renew;

(4) that the corporation desiring to be renewed or reinstated *revived* and so renewing or reinstating *reviving* its corporate existence was duly organized under the laws of the state of its original incorporation;

(5)(4) the date when the articles of incorporation or the authority to engage in business would expire, if such is the case, or such other facts as may show that the articles of incorporation or the authority to engage in business has become *became* forfeited or void pursuant to this code, or that the validity of any renewal *revival* has been brought into question; and

(6)(5) that the certificate for reinstatement *of revival* is filed by authority of those who were directors or members of the governing body of the corporation at the time its articles of incorporation or the authority to engage in business expired, or who were elected *the board of* directors or members of the governing body of the corporation as provided in accordance with subsection (h).

(e) Upon the filing of the certificate in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto, the corporation shall be renewed or reinstated *revived* with the same force and effect as if its articles of incorporation or authority to engage in business had not been forfeited or void pursuant to this code or had not expired by limitation. Such reinstatement *revival* shall validate all contracts, acts, matters and things made, done and performed within the scope of its articles of incorporation or authority to engage in business by the corporation, its directors or members of its governing body, officers and agents and stockholders or members during the time when its articles of incorporation or authority to engage in business was forfeited or void pursuant to this code, or after their expiration by limitation, with the same force and effect and to all intents and purposes as if the articles of incorporation had at all times remained in full force and effect. All real and personal property, rights and credits, which *that* belonged to the corporation at the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code, or expired by limitation and which *that* were not disposed of prior to the time of its renewal or reinstatement shall be vested in the corporation after its renewal or reinstatement, as fully and amply as they were held by the corporation at and before the time its articles of incorporation or authority to engage in business became forfeited or void pursuant to this code, or expired by limitation, *revival* and all real and personal property, rights and credits acquired by the corporation after its renewal or reinstatement articles of incorporation became forfeited or void pursuant to this code shall be vested in the corporation, after

its revival, as if its articles of incorporation had at all times remained in full force and effect. The corporation after its revival shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its directors or members of its governing body, officers and agents and stockholders or members prior to its reinstatement revival, as if its articles of incorporation or authority to engage in business had at all times remained in full force and effect.

(f) If, since the articles of incorporation became forfeited or void pursuant to this code, or expired by limitation, any other corporation organized under the laws of this state shall have adopted the same name as the corporation sought to be renewed or reinstated revived or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated revived, or any foreign corporation registered in accordance with K.S.A. 2022 Supp. 17-7931, and amendments thereto, shall have adopted the same name as the corporation sought to be renewed or reinstated revived, or shall have adopted a name so nearly similar thereto as not to distinguish it from the corporation to be renewed or reinstated revived, then in such case the corporation to be renewed or reinstated revived shall not be renewed revived under the same name which that it bore when its articles of incorporation became forfeited or void pursuant to this code or expired, but shall adopt or be renewed be revived under some other name; and in such case as set forth in the certificate to be filed under the provisions of this section shall set forth the name borne by the corporation at the time its articles of incorporation became forfeited or void pursuant to this code, or expired and the new name under which the corporation is to be renewed or reinstated pursuant to subsection (c).

(g) Any corporation that renews or reinstates revives its articles of incorporation or authority to engage in business under this code shall file all past due business entity information reports for the immediately preceding 10 years and pay to the secretary of state an amount equal to all fees and any penalties thereon due. Nonprofit corporations shall file only the business entity information reports for the most recent reporting period and pay to the secretary of state an amount equal to all fees due.

(h) If a sufficient number of the last acting officers of any corporation desiring to renew or reinstate its articles of incorporation are not available by reason of death, unknown address or refusal or neglect to act, the directors of the corporation or those remaining on the board, even if only one, may elect successors to such officers. For purposes of this section the board of directors or governing body of the corporation shall be comprised of the persons, who, but for the articles of incorporation having become forfeited or void pursuant to this code, would be the duly elected or appointed directors or members of the governing body of the corporation.

The requirement for authorization by the board of directors under subsection (c) shall be satisfied if a majority of the directors or members of the governing body then in office, even though less than a quorum, or the sole director or member of the governing body then in office, authorizes the revival of the articles of incorporation of the corporation and the filing of the certificate required by subsection (c). In any case where there shall be no directors of the corporation available for the purposes ~~as~~ ~~described~~ ~~in this subsection~~, the stockholders may elect a full board of directors, as provided by the bylaws of the corporation, and the board ~~shall then elect such officers as are provided by law, by so elected may then authorize the revival of the articles of incorporation or by the bylaws to carry on the business and affairs of the corporation and the filing of the certificate required by subsection (c).~~ A special meeting of the stockholders for the ~~purposes~~ ~~purpose~~ of electing directors may be called by any officer, ~~director~~ or stockholder upon notice given in accordance with K.S.A. 17-6512, and amendments thereto. For purposes of this section, the bylaws shall be the bylaws of the corporation that, but for the articles of incorporation having become forfeited or void pursuant to this code, would be the duly adopted bylaws of the corporation.

(i) After a ~~reinstatement~~ *revival* of the articles of incorporation of the corporation shall have been effected, the provisions of K.S.A. 17-6501(c), and amendments thereto, shall govern and the period of time *during which* the articles of incorporation of the corporation was forfeited or void pursuant to this code, ~~or after its expiration by limitation~~, shall be included within the calculation of the 30-day and 13-month periods to which K.S.A. 17-6501(c), and amendments thereto, refers. A special meeting of stockholders held in accordance with subsection (h) shall be deemed an annual meeting of the stockholders for purposes of K.S.A. 17-6501(c), and amendments thereto.

(j) Whenever it shall be desired to ~~renew or reinstate~~ *revive* the articles of incorporation or authority to engage in business of any nonstock corporation, the governing body shall perform all the acts necessary for the ~~renewal or reinstatement~~ *revival* of the articles of incorporation of the corporation or its authority to engage in business ~~which that~~ are performed by the board of directors in the case of a corporation having capital stock, and the members of any nonstock corporation who are entitled to vote for the election of members of its governing body and any other members entitled to vote for dissolution under the articles of incorporation or bylaws of such corporation, shall perform all the acts necessary for the ~~renewal or reinstatement~~ *revival* of the articles of incorporation of the corporation or its authority to engage in business ~~which that~~ are performed by the stockholders in the case of a corporation having capital stock. In all other respects, the procedure for the ~~renewal or rein-~~

~~statement~~ *revival* of the articles of incorporation or authority to engage in business of a nonstock corporation shall conform, as nearly as may be applicable, to the procedure prescribed in this section for the ~~renewal or~~ revival of the articles of incorporation of a corporation having capital stock, except that subsection (i) shall not apply to nonstock corporations.

Sec. 42. K.S.A. 2022 Supp. 17-7003 is hereby amended to read as follows: 17-7003. Any corporation desiring to renew, *restore*, *revive*, extend and continue its corporate existence, shall, upon complying with the provisions of ~~K.S.A. 17-7002~~ *article 70 of chapter 17 of the Kansas Statutes Annotated*, and amendments thereto, continue ~~for the time stated as provided in~~ its certificate of ~~renewal~~ *effecting such action*, as a corporation and shall, in addition to the rights, privileges and immunities conferred by its articles of incorporation, possess and enjoy all the benefits of this code, ~~which that~~ are applicable to the nature of its business, and shall be subject to the restrictions and liabilities by this code imposed on such corporations.

Sec. 43. K.S.A. 2022 Supp. 17-72a04 is hereby amended to read as follows: 17-72a04. Any stock certificate issued by a public benefit corporation shall note conspicuously that the corporation is a public benefit corporation formed pursuant to K.S.A. 2022 Supp. 17-72a01 through 17-72a09, and amendments thereto. Any notice ~~sent given~~ by a public benefit corporation pursuant to K.S.A. 17-6401(f), and amendments thereto, shall state conspicuously that the corporation is a public benefit corporation formed pursuant to K.S.A. 2022 Supp. 17-72a01 through 17-72a09, and amendments thereto.

Sec. 44. K.S.A. 2022 Supp. 17-72a05 is hereby amended to read as follows: 17-72a05. (a) The board of directors shall manage or direct the business and affairs of the public benefit corporation in a manner that balances the pecuniary interests of the stockholders, the best interests of those materially affected by the corporation's conduct and the specific public benefit or public benefits identified in its articles of incorporation.

(b) A director of a public benefit corporation shall not, by virtue of the public benefit provisions or K.S.A. 2022 Supp. 17-72a02(a), and amendments thereto, have any duty to any person on account of any interest of such person in the public benefit or public benefits identified in the articles of incorporation or on account of any interest materially affected by the corporation's conduct and, with respect to a decision implicating the ~~balance~~ *balancing* requirement in subsection (a), will be deemed to satisfy such director's fiduciary duties to stockholders and the corporation if such director's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve.

(c) ~~The articles of incorporation of a public benefit corporation may include a provision that any disinterested failure to satisfy this section shall~~

~~not~~A director's ownership of or other interest in the stock of the public benefit corporation shall not alone, for the purposes of this section, create a conflict of interest on the part of the director with respect to the director's decision implicating the balancing requirement in subsection (a), except to the extent that such ownership or interest would create a conflict of interest if the corporation were not a public benefit corporation. In the absence of a conflict of interest, no failure to satisfy that balancing requirement shall, for the purposes of K.S.A. 17-6002(b)(8) or 17-6305, and amendments thereto, constitute an act or omission not in good faith, or a breach of the duty of loyalty unless the articles of incorporation so provide.

Sec. 45. K.S.A. 2022 Supp. 17-72a07 is hereby amended to read as follows: 17-72a07. ~~Stockholders of a public benefit corporation owning~~Any action to enforce the balancing requirement of K.S.A. 17-72a05(a), and amendments thereto, including any individual, derivative, or any other type of action, shall not be brought unless the plaintiffs in such action own individually or collectively, as of the date of instituting such derivative suit the action is instituted, at least 2% of the corporation's outstanding shares or, in the case of a corporation with shares listed on a national securities exchange, the lesser of such percentage or shares of the corporation with a market value of at least \$2,000,000 in market value, may maintain a derivative lawsuit to enforce the requirements set forth in K.S.A. 2022 Supp. 17-72a05(a), and amendments thereto as of the date the action is instituted. This section shall not relieve the plaintiffs from complying with any other conditions applicable to filing a derivative action including K.S.A. 60-223a(b)(1), and amendments thereto, and any rules of the court where the action is filed.

Sec. 46. K.S.A. 2022 Supp. 17-7302 is hereby amended to read as follows: 17-7302. (a) Whenever any foreign corporation admitted to do business in this state is a party to a merger or consolidation with any other foreign corporation, whether or not admitted to do business in this state, such foreign corporation shall file with the secretary of state of this state, within 30 days after the time the merger or consolidation becomes effective, a certificate of the proper officer of the jurisdiction under the laws of which the merger or consolidation was effected, attesting to such merger or consolidation ~~and~~, or a form prescribed by the secretary of state of this state, in each case stating:

- (1) The corporate parties thereto;
- (2) the jurisdiction of incorporation of each corporate party;
- (3) the time when such merger or consolidation became effective; and
- ~~(3)~~(4) that the resulting or surviving corporation is a corporation in good standing in such jurisdiction.

(b) Whenever any foreign corporation admitted to do business in this state shall amend its articles of incorporation in a manner which that af-

fects any of the information contained on such corporation's application to do business in Kansas, the corporation shall file with the secretary of state, within 30 days after the amendment is adopted, a certificate of the proper officer of the jurisdiction in which such corporation has been incorporated attesting to such amendment. In the alternative, any foreign corporation may amend its original application for authority to do business in Kansas by filing a certificate of amendment certifying that such amendment has been duly adopted and executed in accordance with K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto.

Sec. 47. K.S.A. 2022 Supp. 17-7503 is hereby amended to read as follows: 17-7503.(a) Every domestic corporation organized for profit shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be made on forms prescribed by the secretary of state and shall be filed biennially, as determined by the year that the domestic corporation filed its formation documents. A domestic corporation that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A domestic corporation that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code*;
- (3) ~~the names and addresses of~~ *name and postal address for* the president, secretary, treasurer or equivalent of such officers and members of the board of directors;
- (4) ~~the number of shares of capital stock issued;~~
- (5) the nature and kind of business in which the corporation is engaged; and
- (6)(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(d) Every corporation subject to the provisions of this section that holds agricultural land, as defined in K.S.A. 17-5903, and amendments

thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(e) The report shall be executed in accordance with the provisions of K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report it shall be the duty of each domestic corporation organized for profit to pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 48. K.S.A. 2022 Supp. 17-7504 is hereby amended to read as follows: 17-7504. (a) Every corporation organized not for profit shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation's tax period is other than the calendar year, it shall give notice thereof to the secretary of state prior to December 31 of the year it commences such tax period.

(b) The report shall be made on forms prescribed by the secretary of state and shall be filed biennially, as determined by the year that the corporation organized not for profit filed its formation documents. A corporation organized not for profit that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A

corporation organized not for profit that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than on the 15th day of the sixth month following the close of the taxable year.

(c) The report shall contain the following information:

- (1) The name of the corporation;
- (2) the location of the principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code;*
- (3) ~~the names and addresses of name and postal address for the president, secretary and treasurer or equivalent of such officers, and the members of the governing body; and~~
- (4) ~~the number of memberships or the number of shares of capital stock issued; and~~
- (5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the secretary of state, the name and identification number of any such subsidiary business entity.

(d) Every corporation subject to the provisions of this section that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;
- (2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;
- (3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;
- (4) the total number of stockholders or members of the corporation;
- (5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;
- (6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and
- (7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(e) The report shall be executed in accordance with the provisions of K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report

shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report, each nonprofit corporation shall pay a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 49. K.S.A. 2022 Supp. 17-7505 is hereby amended to read as follows: 17-7505. (a) Every foreign corporation organized for profit, or organized under the cooperative type statutes of the state, territory or foreign country of incorporation, now or hereafter doing business in this state, and owning or using a part or all of its capital in this state, and subject to compliance with the laws relating to the admission of foreign corporations to do business in Kansas, shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the corporation at the close of business on the last day of its tax period next preceding the date of filing, but if a corporation operates on a fiscal year other than the calendar year it shall give written notice thereof to the secretary of state prior to December 31 of the year commencing such fiscal year.

(b) The report shall be made on a form prescribed by the secretary of state and shall be filed biennially, as determined by the year that the foreign corporation filed its foreign corporation application in Kansas. A foreign corporation that filed an application in an even-numbered year shall file a report in each even-numbered year. A foreign corporation that filed an application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the corporation's tax period but not later than at the time prescribed by law for filing the corporation's annual Kansas income tax return.

(c) The report shall contain the following information:

(1) The name of the corporation and under the laws of what state or country it is incorporated;

(2) the location of its principal office, *including the building and suite number, street name or rural route number with box number, city, state and zip code*;

(3) ~~the names and addresses of~~ *name and postal address* for the president, secretary, treasurer, or equivalent of such officers, and members of the board of directors;

(4) ~~the number of shares of capital stock issued;~~

(5) the nature and kind of business in which the company is engaged; and

(6)(5) if the corporation is a parent corporation holding more than 50% equity ownership in any other business entity registered with the

secretary of state, the name and identification number of any such subsidiary business entity.

(d) Every corporation subject to the provisions of this section that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

(1) The acreage and location listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by or to the corporation;

(2) the purposes for which such agricultural land is owned or leased and, if leased, to whom such agricultural land is leased;

(3) the value of the nonagricultural assets and the agricultural assets, stated separately, owned and controlled by the corporation both within and without the state of Kansas and where situated;

(4) the total number of stockholders of the corporation;

(5) the number of acres owned or operated by the corporation, the number of acres leased by the corporation and the number of acres leased to the corporation;

(6) the number of acres of agricultural land, held and reported in each category under paragraph (5), stated separately, being irrigated; and

(7) whether any of the agricultural land held and reported under this subsection was acquired after July 1, 1981.

(e) The report shall be executed in accordance with the provisions of K.S.A. 2022 Supp. 17-7908 through 17-7910, and amendments thereto. The official title or position of the individual signing the report shall be designated. The fact that an individual's name is signed on such report shall be prima facie evidence that such individual is authorized to sign the report on behalf of the corporation. This report shall be subscribed by the person as true, under penalty of perjury.

(f) At the time of filing its business entity information report, each such foreign corporation shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

Sec. 50. K.S.A. 2022 Supp. 17-7506 is hereby amended to read as follows: 17-7506. (a) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations, but not exceeding \$250, for issuing or filing and indexing articles of incorporation of a for-profit or a foreign corporation application.

(b) The secretary of state shall charge each corporation a fee established by rules and regulations, but not exceeding \$50, for articles of incorporation of a nonprofit corporation.

(c) The secretary of state shall charge each corporation a fee estab-

lished by rules and regulations, but not exceeding \$150, for issuing or filing and indexing any of the corporate documents described below:

- (1) Certificate of extension, *revocation of dissolution*, restoration, ~~renewal~~ or revival of articles of incorporation;
- (2) certificate of amendment of articles of incorporation, either prior to or after payment of capital;
- (3) certificate of designation of preferences;
- (4) certificate of retirement of preferred stock;
- (5) certificate of increase or reduction of capital;
- (6) certificate of dissolution, either prior to or after beginning business;
- (7) certificate of revocation of voluntary dissolution;
- (8) certificate of change of location of registered office and resident agent;
- (9) *certificate of merger or consolidation* or agreement of merger or consolidation;
- (10) certificate of ownership and merger;
- (11) certificate of extension, restoration, renewal or revival of a certificate of authority of foreign corporation to do business in Kansas;
- (12) change of resident agent or amendment by foreign corporation;
- (13) certificate of withdrawal of foreign corporation;
- (14) certificate of correction of any of the instruments designated in this section;
- (15) reservation of corporate name;
- (16) restated articles of incorporation;
- (17) extension of a business entity information report; and
- (18) certificate of validation.

(d) The secretary of state shall charge each corporation a fee established pursuant to rules and regulations but not exceeding \$50 for issuing certified copies, photocopies, certificates of good standing and certificates of fact; and any other certificate or filing for which a filing or indexing fee is not prescribed by law.

(e) The secretary of state shall not charge fees for providing the following information: Name of the corporation; *postal* address of its registered office and the name of its resident agent; the amount of its authorized capital stock; the state of its incorporation; date of filing of articles of incorporation, foreign corporation application or business entity information report; and date of expiration.

(f) The secretary of state shall prescribe by rules and regulations any fees required by this act.

Sec. 51. K.S.A. 2022 Supp. 17-76,136 is hereby amended to read as follows: 17-76,136. (a) The secretary of state shall charge each domestic and foreign limited liability company the following fees:

(1) A fee of \$20 for issuing or filing and indexing any of the following documents:

- (A) A certificate of amendment of articles of organization;
- (B) restated articles of organization;
- (C) a certificate of cancellation, which fee shall be multiplied by the number of series of the limited liability company named in the certificate of cancellation;
- (D) a certificate of change of location of registered office or resident agent;
- (E) a certificate of merger or consolidation;
- (F) a certificate of division; and
- (G) any certificate, affidavit, agreement or any other paper provided for in the Kansas revised limited liability company act, for which no different fee is specifically prescribed;

(2) a fee of \$7.50 for each certified copy ~~plus a fee per page, if, regardless of whether~~ the secretary of state supplies the copies, ~~in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto copy;~~

(3) a fee of \$7.50 for each certificate of good standing, including a certificate of good standing for a series of a limited liability company, and certificate of fact issued by the secretary of state;

(4) a fee of \$5 for a report of record search, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: Name of the limited liability company and the *postal* address of its registered office; name and *postal* address of the resident agent; the state of the limited liability company's formation; the date of filing of its articles of organization or business entity information report; and date of expiration; and

(5) ~~a fee of \$20 for photocopies of instruments and which are not, whether or not the copy is certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204, and amendments thereto.~~

(b) Every limited liability company hereafter formed in this state shall pay to the secretary of state, at the time of filing its articles of organization, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited liability company shall pay to the secretary of state an application and recording fee of \$150.

(d) The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 52. K.S.A. 2022 Supp. 17-76,139 is hereby amended to read as follows: 17-76,139. (a) Every limited liability company organized and on and after July 1, 2020, each series thereof formed or in existence under the laws of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited liability company or series, as applicable, at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's or series' tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the limited liability company or series filed its formation documents. A limited liability company or series that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited liability company or series that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. It is permissible to file at one time the biennial report information for more than one limited liability company or series, regardless of whether the formation documents were filed in an even-numbered or odd-numbered year, ~~provided~~ *except* that all the reports shall be filed in the first year a biennial report is due under this law and in odd-numbered years thereafter. The report shall be filed after the close of the limited liability company's tax period or series' tax period but not later than at the time prescribed by law for filing the limited liability company's or series' annual Kansas income tax return, or if applicable law does not prescribe a time for filing an annual Kansas income tax return for a series, the report for the series shall be filed at, and for purposes of this section its tax period shall be deemed to be, the time prescribed by law for filing the annual Kansas income tax return for the limited liability company to which the series is associated.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information for each limited liability company or series:

(1) The name of the limited liability company or series, as applicable; ~~and~~

(2) a list of the members owning at least 5% of the capital of the limited liability company or series, as applicable, with the ~~post office~~ *postal* address of each; *and*

(3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) (1) Every foreign limited liability company shall make a written business entity information report to the secretary of state, stating the

prescribed information concerning the limited liability company at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability company's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(2) The report shall be filed biennially, as determined by the year that the foreign limited liability company filed its foreign limited liability company application. A foreign limited liability company that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited liability company that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the foreign limited liability company's tax period but not later than at the time prescribed by law for filing the limited liability company's annual Kansas income tax return.

(3) The report shall be made on a form prescribed by the secretary of state and shall contain the name of the limited liability company.

(e) The business entity information report required by this section shall be executed by one or more authorized persons, and filed with the secretary of state. The execution of such report by a person who is authorized by the Kansas revised limited liability company act to execute such report, upon filing such report with the secretary of state, constitutes an oath or affirmation, under penalties of perjury that, to the best of such person's knowledge and belief, the facts stated ~~therein~~ *in such report* are true.

(f) At the time of filing the business entity information report, each limited liability company or series shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file business entity information report or pay the required fee, shall be applicable to the articles of organization of any domestic limited liability company, the certificate of designation of any series thereof, or to the authority of any foreign limited liability company ~~which~~ *that* fails to file its business entity information report or pay the fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time for filing and paying the same. Whenever the articles of organization of a domestic limited liability company, the certificate of designation of a series thereof, or the authority of any foreign limited lia-

bility company are forfeited or canceled for failure to file business entity information report or to pay the required fee, the domestic limited liability company or the authority of a foreign limited liability company may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2022 Supp. 17-76,146, and amendments thereto, and the certificate of designation may be reinstated by filing a certificate of reinstatement, pursuant to K.S.A. 2022 Supp. 17-76,147, and amendments thereto, and in each case, paying to the secretary of state all fees, including any penalties thereon, due to the state.

~~(h) All copies of applications for extension of the time for filing income tax returns submitted to the secretary of state pursuant to law shall be maintained by the secretary of state in a confidential file and shall not be disclosed to any person except as authorized pursuant to the provisions of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or subsection (g). All copies of such applications shall be preserved for one year and thereafter until the secretary of state orders that they be destroyed.~~

~~(i) A copy of such application shall be open to inspection by or disclosure to any person who was a member of such limited liability company or series during any part of the period covered by the extension.~~

Sec. 53. K.S.A. 2022 Supp. 17-78-102 is hereby amended to read as follows: 17-78-102. As used in this act:

(a) “Acquired entity” means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.

(b) “Acquiring entity” means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.

(c) “Agreement” means a plan or agreement of merger, interest exchange, conversion or domestication.

(d) “Approve” means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law, and other law to:

(1) Propose a transaction subject to this act;
(2) adopt and approve the terms and conditions of the transaction;
and

(3) conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

(e) “Conversion” means a transaction authorized by K.S.A. 2022 Supp. 17-78-401 through 17-78-406, and amendments thereto.

(f) “Converted entity” means the converting entity as it continues in existence after a conversion.

(g) “Converting entity” means the domestic entity that approves an agreement of conversion pursuant to K.S.A. 2022 Supp. 17-78-403, and

amendments thereto, or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of organization.

(h) “Domestic entity” means an entity whose internal affairs are governed by the law of this state.

(i) “Domesticated entity” means the domesticating entity as it continues in existence after a domestication.

(j) “Domesticating entity” means the domestic entity that approves an agreement of domestication pursuant to K.S.A. 2022 Supp. 17-78-503, and amendments thereto, or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of organization.

(k) “Domestication” means a transaction authorized by K.S.A. 2022 Supp. 17-78-501 through 17-78-506, and amendments thereto.

(l) “Entity” means:

- (1) A corporation;
- (2) a general partnership, including a limited liability partnership;
- (3) a limited partnership, including a limited liability limited partnership;
- (4) a limited liability company;
- (5) a business trust or statutory trust entity;
- (6) a cooperative; or
- (7) any other person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:
 - (A) An individual;
 - (B) a testamentary, inter vivos, or charitable trust, with the exception of a business trust, statutory trust entity or similar trust;
 - (C) an association or relationship that is not a partnership solely by reason of ~~subsection (c)~~ of K.S.A. 56a-202(c), and amendments thereto, or a similar provision of the law of any other jurisdiction;
 - (D) a decedent’s estate; or
 - (E) a government, a governmental subdivision, agency; or instrumentality or a quasi-governmental instrumentality.

(m) “Filing entity” means an entity that is created by the filing of a public organic document.

(n) “Foreign entity” means an entity whose internal affairs are governed by the laws of a jurisdiction other than this state.

(o) “Governance interest” means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee or proxy, to:

- (1) Receive or demand access to information concerning, or the books and records of, the entity;
- (2) vote for the election of the governors of the entity; or
- (3) receive notice of or vote on any or all issues involving the internal affairs of the entity.

(p) “Governor” means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(q) “Interest” means:

- (1) A governance interest in an unincorporated entity;
- (2) a transferable interest in an unincorporated entity; or
- (3) a share or membership in a corporation.

(r) “Interest exchange” means a transaction authorized by K.S.A. 2022 Supp. 17-78-301 through 17-78-306, and amendments thereto.

(s) “Interest holder” means a direct holder of an interest.

(t) “Interest holder liability” means:

(1) Personal liability for a liability of an entity that is imposed on a person:

(A) Solely by reason of the status of the person as an interest holder; or

(B) by the organic rules of the entity pursuant to a provision of the organic law authorizing the organic rules to make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

(2) an obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(u) “Jurisdiction of organization” of an entity means the jurisdiction whose law includes the organic law of the entity.

(v) “Liability” means a debt, obligation or any other liability arising in any manner, regardless of whether it is secured or whether it is contingent.

(w) “Merger” means a transaction in which two or more merging entities are combined into a surviving entity pursuant to a filing with the secretary of state.

(x) “Merging entity” means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(y) “Organic law” means the statutes, if any, other than this act, governing the internal affairs of an entity.

(z) “Organic rules” means the public organic document and private organic rules of an entity.

(aa) “Person” means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(bb) “Private organic rules” mean the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders and are not part of its public organic document, if any.

(cc) “Protected agreement” means:

- (1) A record evidencing indebtedness and any related agreement in effect on the effective date of this act;
- (2) an agreement that is binding on an entity on the effective date of this act;
- (3) the organic rules of an entity in effect on the effective date of this act; or
- (4) an agreement that is binding on any of the governors or interest holders of an entity on the effective date of this act.

(dd) “Public organic document” means the public record the filing of which creates an entity and any amendment to or restatement of that record.

(ee) “Qualified foreign entity” means a foreign entity that is authorized to transact business in this state pursuant to a filing with the secretary of state.

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

(gg) “Sign” means, with present intent to authenticate or adopt a record:

- (1) To execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic sound, symbol or process.

(hh) “Surviving entity” means the entity that continues in existence after or is created by a merger.

(ii) “Transferable interest” means the right under an entity’s organic law to receive distributions from the entity.

(jj) “Type,” with regard to an entity, means a generic form of entity:

- (1) Recognized at common law; or
- (2) organized *or formed* under an organic law, whether or not some entities organized *or formed* under that organic law are subject to provisions of that law that create different categories of the form of entity.

Sec. 54. K.S.A. 2022 Supp. 17-78-202 is hereby amended to read as follows: 17-78-202. (a) A domestic entity may become a party to a merger under K.S.A. 2022 Supp. 17-78-201 through 17-78-206, and amendments thereto, by approving an agreement of merger *unless approval is not required under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto*. The agreement shall be in a record and contain:

- (1) As to each merging entity, its name, jurisdiction of organization and type;
- (2) if the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of organization and type;
- (3) the manner of converting the interests in each party to the merger into interests, securities, obligations, rights to acquire interests or securities,

cash or other property or any combination of the foregoing thereof, *except that if the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, apply and the merger entity does not own all of the interests of the domestic corporation or corporations, then an interest holder in a domestic corporation shall not become a general partner in a surviving entity that is a partnership, other than a limited liability partnership;*

(4) if the surviving entity exists before the merger, any proposed amendments to its public organic document or to its private organic rules, *which may amend and restate its public organic document or its private organic rules or both*, that are, or are proposed to be, in a record;

(5) if the surviving entity is to be created in the merger, its proposed public organic document, if any, and the full text of its private organic rules that are proposed to be in a record;

(6) the other terms and conditions of the merger; and

(7) any other provision required by the law of a merging entity's jurisdiction of organization or the organic rules of a merging entity.

(b) An agreement of merger shall be signed on behalf of each merging entity, *except under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, in which case the agreement of merger shall only be signed on behalf of the merging entity that owns at least 90% of the interests of a domestic corporation or corporations.*

(c) An agreement of merger may contain any other provision not prohibited by law.

Sec. 55. K.S.A. 2022 Supp. 17-78-203 is hereby amended to read as follows: 17-78-203. (a) *Except as provided in subsection (c)*, an agreement of merger is not effective unless it has been approved:

(1) By a domestic merging entity:

(A) In accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a corporation, a merger; or

(ii) in the case of a corporation, a merger requiring approval by a vote of the interest holders of the corporation; or

(B) if neither its organic law nor organic rules provide for approval of a merger described in subparagraph (A), by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) in a record, by each interest holder of a domestic merging entity that will have interest holder liability for liabilities that arise after the merger becomes effective, unless, in the case of an entity that is not a corporation:

(A) The organic rules of the entity provide in a record for the approval of a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

(B) the interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A merger involving a foreign merging entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of organization.

(c) *If a merging entity owns at least 90% of the interests of a domestic corporation or corporations, other than a domestic corporation that has in its articles of incorporation the provisions required by K.S.A. 17-6701(g)(7)(B), and amendments thereto, of which there are interests that, absent this subsection would be entitled to approve an agreement of merger, an agreement of merger is effective if such merging entity has approved the agreement of merger as provided in subsection (a) or (b) and the approval of such domestic corporation or corporations is not required.*

Sec. 56. K.S.A. 2022 Supp. 17-78-205 is hereby amended to read as follows: 17-78-205. (a) A certificate of merger shall be signed on behalf of the surviving entity and filed with the secretary of state.

(b) A certificate of merger shall contain:

(1) The name, jurisdiction of organization and type of each merging entity that is not the surviving entity;

(2) the name, jurisdiction of organization and type of the surviving entity;

(3) if the certificate of merger is not to be effective upon filing, the later date and time ~~on which~~ *when* it will become effective, which ~~may~~ *shall* not be more than 90 days after the date of filing;

(4) a statement that the merger was approved by each domestic merging entity, if any, in accordance with K.S.A. 2022 Supp. 17-78-201 through 17-78-206, and amendments thereto, *or if not required to be approved under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, a statement that the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, apply,* and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of organization;

(5) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic document approved as part of the agreement of merger, *which may amend and restate its public organic document;*

(6) if the surviving entity is created by the merger and is a domestic filing entity, its public organic document, as an attachment;

(7) if the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and

(8) if the surviving entity is a foreign entity that is not a qualified foreign entity, a ~~mailing~~ *postal* address to which the secretary of state may

send any process served on the secretary of state pursuant to ~~subsection (e) of~~ K.S.A. 2022 Supp. 17-78-206(e), and amendments thereto.

(c) In addition to the requirements of subsection (b), a certificate of merger may contain any other provision not prohibited by law.

(d) If the surviving entity is a domestic entity, its name and any attached public organic document shall satisfy the requirements of the law of this state, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic document. If the surviving entity is a qualified foreign entity, its name shall satisfy the requirements of the law of this state.

(e) An agreement of merger that is signed on behalf of all of the merging entities, *or under the circumstances stated in K.S.A. 2022 Supp. 17-78-203(c), and amendments thereto, only signed on behalf of the merging entity that owns at least 90% of the interest of a domestic corporation or corporations*, and meets all of the requirements of subsection (b) may be filed with the secretary of state instead of a certificate of merger and upon filing has the same effect. If an agreement of merger is filed as provided in this subsection, references in this act to a certificate of merger refer to the agreement of merger filed under this subsection.

(f) A certificate of merger becomes effective upon the date and time of filing or the later date and time specified in the certificate of merger.

Sec. 57. K.S.A. 2022 Supp. 17-78-302 is hereby amended to read as follows: 17-78-302. (a) A domestic entity may be the acquired entity in an interest exchange under K.S.A. 2022 Supp. 17-78-301 through 17-78-306, and amendments thereto, by approving an agreement of interest exchange. The agreement shall be in a record and contain:

- (1) The name and type of the acquired entity;
- (2) the name, jurisdiction of organization and type of the acquiring entity;
- (3) the manner of converting the interests in the acquired entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property or any combination of the foregoing thereof;
- (4) any proposed amendments to the public organic document or private organic rules, *which may amend and restate its public organic document or its private organic rules or both*, that are, or are proposed to be, in a record of the acquired entity;
- (5) the other terms and conditions of the interest exchange; and
- (6) any other provision required by the law of this state or the organic rules of the acquired entity.

(b) An agreement of interest exchange may contain any other provision not prohibited by law.

Sec. 58. K.S.A. 2022 Supp. 17-78-606 is hereby amended to read as follows: 17-78-606. ~~This act modifies, limits and supersedes~~ *In the event that*

any provision of article 78 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, is deemed to modify, limit or supersede the federal electronic signatures in global and national commerce act 15, U.S.C. § 7001 et seq., but does not modify, limit or supersede section 101(c) of that act 15 U.S.C. § 7001(c) or authorize electronic delivery of any of the notices described in section 103(b) of that act the provisions of this article shall control to the fullest extent permitted by 15 U.S.C. § 7003(b) 7002(a)(2).

Sec. 59. K.S.A. 2022 Supp. 17-7914 is hereby amended to read as follows: 17-7914. (a) Any document required to be filed by this act with the secretary of state may be filed by telefacsimile or *electronic* communication. If such telefacsimile or *electronic* communication is accompanied with the appropriate fees, and meets the statutory requirements, it shall be effective upon its filing date or future effective date as prescribed in the document. The secretary of state shall prescribe a telefacsimile or *electronic* communication fee in addition to any filing fees to cover the cost of the services. The fee must be paid prior to acceptance of a telefacsimile or *electronic* communication under this section. The telefacsimile or *electronic* communication fee shall be deposited into the information and services fee fund.

(b) As used in this act, “telefacsimile or *electronic* communication” means the use of electronic equipment to send or transfer a document, *including attachment to an electronic mail or direct upload*. This section shall not be construed so as to require the secretary of state to accept any filing through ~~electronic mail~~ *any particular means*. The secretary of state may designate acceptable types or formats of telefacsimile or *electronic* communication for filing documents pursuant to this act.

~~(c) This section shall take effect on and after January 1, 2015.~~

Sec. 60. K.S.A. 2022 Supp. 17-7918 is hereby amended to read as follows: 17-7918. (a) Except as otherwise provided in subsection (b), the names of all covered entities, except for banks, savings and loan associations and savings banks, must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any other covered entity or foreign covered entity;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the office of the secretary of state, including a series of a limited liability company for which a certificate of designation has been filed;
- (3) any entity name reserved pursuant to K.S.A. 2022 Supp. 17-7923, and amendments thereto; and
- (4) the name of any other covered entity, series of a limited liability company or foreign covered entity whose public organic documents, certificate of designation or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state with the written consent of the other entity, which written consent shall be filed with the secretary of state *on a form prescribed by the secretary of state*.

(c) A covered entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (3) if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

Sec. 61. K.S.A. 2022 Supp. 17-7919 is hereby amended to read as follows: 17-7919. (a) The name of a corporation, except for banks, savings and loan associations, savings banks and public benefit corporations, shall contain:

(1) One of the following words: “Association”; “church” or *well-recognized words for religious institutions*; “college”; “company”; “corporation”; “club”; “foundation”; “fund”; “incorporated”; “institute”; “society”; “union”; “university”; “syndicate” or “limited”;

(2) one of the following abbreviations: “Co.”; “corp.”; “inc.” or “ltd.”; or

(3) words or abbreviations of like import in other languages if they are written in Roman characters or letters.

(b) The name of a public benefit corporation shall contain either or both of one of the words, abbreviations or designations in subsection (a) or:

(1) The words “public benefit corporation”;

(2) the abbreviation “P.B.C.”;

(3) the designation “PBC”; or

(4) words or abbreviations of like import in other languages if they are written in Roman characters or letters.

Sec. 62. K.S.A. 2022 Supp. 17-7924 is hereby amended to read as follows: 17-7924. (a) Every covered entity shall have and maintain in this state a registered office ~~which~~ *that* may, but need not be, the same as its place of business.

(b) Whenever the term “principal office or place of business in this state” or “principal office or place of business of the (applicable covered entity) in this state,” or other term of like import, is or has been used in the covered entity’s public organic documents, or in any other document or in any statute other than the Kansas uniform commercial code, unless the context indicates otherwise, it shall be deemed to mean and refer to the covered entity’s registered office required by this section, and it shall not be necessary for any covered entity to amend its public organic documents or any other document to comply with this section.

(c) As contained in any covered entity's organic documents or other document filed with the secretary of state under the business entity standard treatment act, the *postal* address of a registered office shall include ~~the street, number, city and postal code~~ *building and suite number, street name or rural route number with box number, city, state and zip code*.

Sec. 63. K.S.A. 2022 Supp. 17-7929 is hereby amended to read as follows: 17-7929. (a) The resident agent of ~~one or more a covered entities~~ *entity, including a resident agent that no longer qualifies to be a resident agent under K.S.A. 2022 Supp. 17-7925, and amendments thereto*, may resign without appointing a successor by paying a fee if authorized by law, as provided by K.S.A. 2022 Supp. 17-7910, and amendments thereto, and filing a certificate of resignation, with the secretary of state stating that the resident agent resigns as resident agent for the covered *entity or entities* identified in the certificate, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall be executed by the resident agent, shall contain a statement that written notice of resignation was given to each affected covered entity at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the covered entity at its address last known to the resident agent and shall set forth the date of such notice. *The certificate shall also include the postal address and name and contact information of an officer, director, employee or designated agent who is then authorized to receive communications from the resident agent with respect to the affected covered entities last known to the resident agent, and such information shall not be deemed public information and will not constitute a public record as defined in K.S.A. 45-217, and amendments thereto.*

(b) After receipt of the notice of the resignation of its resident agent, provided for in subsection (a), any covered entity for which such resident agent was acting shall obtain and designate a new resident agent to take the place of the resident agent so resigning. Such covered entity shall pay a fee if authorized by law, as provided by K.S.A. 2022 Supp. 17-7910, and amendments thereto, and file with the secretary of state a certificate setting forth the name and *postal* address of the successor resident agent. Upon such filing, the successor resident agent shall become the resident agent of such covered entity and the successor resident agent's *postal* address, as stated in such certificate, shall become the *postal* address of the covered entity's registered office in this state. If such covered entity fails to obtain and designate a new resident agent as aforesaid, prior to the expiration of the period of 60 days after the filing by the resident agent of the certificate of resignation, the secretary of state shall declare the entity's organizing documents forfeited.

(c) After the resignation of the resident agent shall have become effective, as provided in subsection (a), and if no new resident agent shall

have been obtained and designated in the time and manner provided for in subsection (b), service of legal process against the covered entity, or in the case of a domestic or foreign limited liability company, any series of such limited liability company, for which the resigned resident agent had been acting shall thereafter be upon the secretary of state in the manner prescribed by K.S.A. 60-304, and amendments thereto.

(d) Any covered entity affected by the filing of a certificate under this section shall not be required to take any further action to amend its public organic documents to reflect a change of registered office or resident agent.

Sec. 64. K.S.A. 2022 Supp. 17-7933 is hereby amended to read as follows: 17-7933. (a) Except as otherwise provided in subsection (b), the names of all foreign covered entities must be distinguishable on the records of the office of the secretary of state from:

- (1) The name of any covered entity or foreign covered entity;
- (2) the name of any non-covered entity, other than a general partnership, that has filed with the secretary of state, including a series of a limited liability company for which a certificate of designation has been filed;
- (3) any entity name reserved pursuant to K.S.A. 2022 Supp. 17-7923, and amendments thereto; and
- (4) the name of any other covered entity, series of a limited liability company or foreign covered entity whose public organic document, certificate of designation or foreign registration has been canceled or forfeited for any reason within the previous one year.

(b) A foreign covered entity may register under any name that is not distinguishable on the records of the office of the secretary of state from the name of any other covered entity or non-covered entity that has filed with the office of the secretary of state:

- (1) With the written consent of the other entity, which ~~written consent~~ shall be filed with the secretary of state *on a form prescribed by the secretary of state*; or
- (2) if the foreign covered entity indicates, as a means of identification and in its advertising within this state, the state in which the foreign covered entity was formed, and the application sets forth this condition.

Sec. 65. K.S.A. 2022 Supp. 56-1a605 is hereby amended to read as follows: 56-1a605. (a) The secretary of state shall charge each domestic and foreign limited partnership the following fees:

- (1) For issuing or filing and indexing any of the documents described below, a fee of \$20:
 - (A) A certificate of amendment of limited partnership;
 - (B) a restated certificate of limited partnership;
 - (C) a certificate of cancellation of limited partnership;
 - (D) a certificate of change of location of registered office or registered agent; and

(E) any certificate, affidavit, agreement or any other paper provided for in this act, for which no different fee is specifically prescribed;

(2) for certified copies, a fee of \$7.50 for each copy certified ~~plus a fee per page, if, regardless of whether~~ the secretary of state supplies the copies, ~~in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204 and amendments thereto;~~

(3) for each certificate of good standing and certificate of fact issued by the secretary of state, a fee of \$7.50;

(4) for a report of record search, a fee of \$5, but furnishing the following information shall not be considered a record search and no charge shall be made therefor: name of the limited partnership and the *postal* address of its registered office; name and *postal* address of the resident agent; the state of the limited partnership's formation; the date of filing of its certificate of limited partnership or business entity information report; and date of expiration; and

(5) ~~for photocopies of instruments a fee of \$20 for a copy of an instrument on file or prepared by the secretary of state's office and which are not, whether or not the copy is certified, a fee per page in an amount fixed by the secretary of state and approved by the director of accounts and reports for copies of corporate documents under K.S.A. 45-204 and amendments thereto.~~

(b) Every limited partnership hereafter formed in this state shall pay to the secretary of state at the time of filing its certificate of limited partnership, an application and recording fee of \$150.

(c) At the time of filing its application to do business, every foreign limited partnership shall pay to the secretary of state an application and recording fee of \$150.

(d) The secretary of state shall not charge any fees for the documents or services described in this section upon an official request by any agency of this state or of the United States, or by any officer or employee thereof.

Sec. 66. K.S.A. 2022 Supp. 56-1a606 is hereby amended to read as follows: 56-1a606. (a) Every limited partnership organized under the laws of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the limited partnership filed its formation documents. A limited partnership that filed formation documents in an even-numbered year

shall file a report in each even-numbered year. A limited partnership that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited partnership's tax period but not later than at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information:

- (1) The name of the limited partnership; ~~and~~
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the *postal* address of each; *and*
- (3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) Every limited partnership subject to the provisions of this section that is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The number of acres and location, listed by section, range, township and county of each lot, tract or parcel of agricultural land in this state owned or leased by the limited partnership; and
- (2) whether any of the agricultural land held and reported under paragraph (1) was acquired after July 1, 1981.

(e) The report shall be signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state.

(f) At the time of filing its business entity information report, the limited partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to forfeiture of a domestic corporation's articles of incorporation for failure to file a business entity information report or pay the required fee, shall be applicable to the certificate of partnership of any limited partnership ~~which~~ *that* fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the certificate of partnership of a limited partnership is

forfeited for failure to file a business entity information report or to pay the required fee, the limited partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 67. K.S.A. 2022 Supp. 56-1a607 is hereby amended to read as follows: 56-1a607. (a) Every foreign limited partnership shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited partnership's tax period is other than the calendar year, it shall give notice of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the foreign limited partnership filed its foreign limited partnership application. A foreign limited partnership that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited partnership that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited partnership's tax period but not later than at the time prescribed by law for filing the limited partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain:

- (1) The name of the limited partnership; *and*
- (2) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) Every foreign limited partnership subject to the provisions of this section that is a limited agricultural partnership, as defined in K.S.A. 17-5903, and amendments thereto, and that holds agricultural land, as defined in K.S.A. 17-5903, and amendments thereto, within this state shall show the following additional information on the report:

- (1) The number of acres and location, listed by section, range, township and county of agricultural land in this state owned or leased by the limited partnership; and
- (2) whether any of the agricultural land held and reported under paragraph (1) was acquired after July 1, 1981.

(e) The report shall be signed by the general partner or partners of the limited partnership under penalty of perjury and forwarded to the secretary of state.

(f) At the time of filing its business entity information report, the foreign limited partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(g) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(b), and amendments thereto, relating to forfeiture of a foreign corporation's authority to do business in this state for failure to file a business entity information report or pay the required fee, shall be applicable to the authority of any foreign limited partnership ~~which~~ *that* fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the authority of a foreign limited partnership to do business in this state is forfeited for failure to file a business entity information report or to pay the required fee, the foreign limited partnership's authority to do business in this state may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 68. K.S.A. 56a-105 is hereby amended to read as follows: 56a-105. (a) A statement may be filed in the office of the secretary of state. A certified copy of a statement that is filed in an office in another state may be filed in the office of the secretary of state. Any statement may be filed by telefacsimile *or electronic* communication if the telefacsimile *or electronic* communication is accompanied with the appropriate fee and meets statutory requirements it shall be effective upon its filing date. Each filing has the effect provided in this act with respect to partnership property located in or transactions that occur in this state.

(b) A certified copy of a statement that has been filed in the office of the secretary of state and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this act. A recorded statement that is not a certified copy of a statement filed in

the office of the secretary of state does not have the effect provided for recorded statements in this act.

(c) A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by this act. An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

(d) A person authorized by this act to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(e) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

(f) The secretary of state may collect a fee for filing or providing a certified copy of a statement. The officer responsible for recording transfers of real property may collect a fee for recording a statement.

(g) The secretary of state shall set by rules and regulations any fees provided by this act.

(h) The secretary of state shall prescribe a telefacsimile *or electronic communication* fee in addition to any filing fees to cover the costs of the services. The fee must be paid prior to acceptance of a telefacsimile communication under this section. The telefacsimile *or electronic* communication fee shall be deposited into the information and copy fee fund. As used in this section, telefacsimile *or electronic* communication means the use of electronic equipment to send or transfer a document, *including as an attachment to electronic mail or direct upload*.

(i) Any signature on documents authorized to be filed with the secretary of state under the provisions of this chapter may be a facsimile, a conformed signature, *an electronic signature* or an electronically transmitted signature.

Sec. 69. K.S.A. 2022 Supp. 56a-1201 is hereby amended to read as follows: 56a-1201. (a) Every limited liability partnership organized under the laws of this state shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the limited liability partnership's tax period is other than the calendar year, it shall give notice of its different tax period in writing to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the limited liability partnership filed its limited liability partnership formation documents. A limited liability partnership that filed formation documents in an even-numbered year shall file a report in each even-numbered year. A limited liability partnership that filed formation documents in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the limited liability partnership's tax period but not later than at the time prescribed by law for filing the limited liability partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain the following information:

- (1) The name of the limited liability partnership; ~~and~~
- (2) a list of the partners owning at least 5% of the capital of the partnership, with the *postal* address ~~of~~ *for* each; *and*
- (3) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) The report shall be signed by a partner of the limited liability partnership under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the limited liability partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(f) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, shall be applicable to the statement of qualification of any limited liability partnership that fails to file its business entity information report or pay the required fee within 90 days of the time prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of qualification of a limited liability partnership is forfeited for failure to file a business entity information report or to pay the required fee, the limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments

thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 70. K.S.A. 2022 Supp. 56a-1202 is hereby amended to read as follows: 56a-1202. (a) Every foreign limited liability partnership shall make a written business entity information report to the secretary of state, stating the prescribed information concerning the foreign limited liability partnership at the close of business on the last day of its tax period next preceding the date of filing. If the foreign limited liability partnership's tax period is other than the calendar year, it shall give notice in writing of its different tax period to the secretary of state prior to December 31 of the year it commences the different tax period.

(b) The report shall be filed biennially, as determined by the year that the foreign limited liability partnership filed its foreign limited liability partnership application. A foreign limited liability partnership that filed its application in an even-numbered year shall file a report in each even-numbered year. A foreign limited liability partnership that filed its application in an odd-numbered year shall file a report in each odd-numbered year. The report shall be filed after the close of the foreign limited liability partnership's tax period but not later than at the time prescribed by law for filing the foreign limited liability partnership's annual Kansas income tax return.

(c) The report shall be made on a form prescribed by the secretary of state and shall contain:

- (1) The name of the foreign limited liability partnership; *and*
- (2) *the location of the principal office, including the building and suite number, street name or rural route number with box number, city, state and zip code.*

(d) The report shall be signed by a partner of the foreign limited liability partnership under penalty of perjury and forwarded to the secretary of state.

(e) At the time of filing its business entity information report, the foreign limited liability partnership shall pay to the secretary of state a fee in an amount equal to \$80, plus the amount specified in rules and regulations of the secretary multiplied by the number of tax periods included in the report.

(f) The provisions of K.S.A. 17-7509, and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, and the provisions of K.S.A. 17-7510(a), and amendments thereto, relating to penalties for failure of a corporation to file a business entity information report or pay the required fee, shall be applicable to the statement of foreign qualification of any foreign limited liability partnership that fails to file its business entity information report or pay the required fee within 90 days of the time

prescribed in this section for filing and paying the same or, in the case of a report filing and fee received by mail, postmarked within 90 days of the time prescribed in this section for filing and paying the same. Whenever the statement of foreign qualification of a foreign limited liability partnership is forfeited for failure to file a business entity information report or to pay the required fee, the statement of foreign qualification of the foreign limited liability partnership may be reinstated by filing a certificate of reinstatement, in the manner and form to be prescribed by the secretary of state, and all past due business entity information reports for the immediately preceding 10 years, and payment to the secretary of state an amount equal to all fees and any penalties due. The fee for filing a certificate of reinstatement shall be the same as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a certificate of reinstatement of a corporation's articles of incorporation.

Sec. 71. K.S.A. 79-1119 is hereby amended to read as follows: 79-1119. (a) All reports, statements, lists and returns required under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, shall be preserved for three years and thereafter until the director of taxation orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) of this section, ~~subsection (g) of K.S.A. 17-7511~~ or K.S.A. 46-1106, and amendments thereto, it shall be unlawful for the director of taxation, or any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, statement, list, return, federal return or federal return information required under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto; and it shall be unlawful for the director of taxation, or any deputy, agent, clerk or other officer or employee of the department of revenue engaged in the administration of the tax imposed under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to engage in the business or profession of tax accounting or to accept employment, with or without consideration, for any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may:

(1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all statements, lists, reports or returns in accordance with and subject to the provisions of ~~subsection (g)~~ of K.S.A. 46-1106(g), and amendments thereto; or

(4) disclose to the secretary of commerce specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any privilege tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit program administered by the secretary of commerce.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of ~~subsections~~ subsection (b) or (c) ~~of this section~~ shall be a class A misdemeanor; and if the offender be an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Notwithstanding the provisions of this section, the secretary of revenue may, in his or her discretion, permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax or privilege tax on financial institutions, or the authorized representative of either, to inspect the reports, statements, lists or returns made under the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in statements, lists, reports, or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to any of the provisions of article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state or of the United States.

Sec. 72. K.S.A. 2022 Supp. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or ~~in K.S.A. 17-7511~~, K.S.A. 46-1106(e), 46-1114, or 79-32,153a, and amendments thereto, it shall be unlawful for the secretary,

the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may:

(1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of K.S.A. 46-1106(e) or 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the

state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the Kansas department of wildlife, parks and tourism to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department for children and families for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV-D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act, K.S.A. 74-4901 et seq., and amendments thereto;

(13) (A) provide taxpayer information of persons suspected of violating K.S.A. 44-766, and amendments thereto, to the secretary of labor or such secretary's designee for the purpose of determining compliance by any person with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and amendments thereto. The information to be provided shall include all relevant information in the possession of the department of revenue necessary for the secretary of labor to make a proper determination of compliance with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and amendments thereto, and to calculate any unemployment contribution taxes due. Such information to be provided by the department of revenue shall include, but not be limited to, withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the results or status of such audit or investigation;

(B) any person receiving tax information under the provisions of this paragraph shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality; and

(C) each of the secretary of labor and the secretary of revenue may adopt rules and regulations necessary to effect the provisions of this paragraph;

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, "associated persons" includes spouses or dependents listed on income tax returns;

(15) after receipt of information pursuant to subsection (f), forward such information and provide the following reported Kansas individual income tax information for each listed defendant, if available, to the state board of indigents' defense services in an electronic format and in the manner determined by the secretary: (A) The defendant's name; (B) social security number; (C) Kansas adjusted gross income; (D) number of exemptions claimed; and (E) the relevant tax year of such records. Any social security number provided to the secretary and the state board of indigents' defense services pursuant to this section shall remain confidential; and

(16) disclose taxpayer information that is received from income tax returns to the department of commerce that may be disclosed pursuant to the provisions of K.S.A. 2022 Supp. 74-50,227, and amendments thereto, for the purpose of including such information in the database required by K.S.A. 2022 Supp. 74-50,227, and amendments thereto.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) For the purpose of determining whether a defendant is financially able to employ legal counsel under the provisions of K.S.A. 22-4504, and amendments thereto, in all felony cases with appointed counsel where the defendant's social security number is accessible from the records of the district court, the court shall electronically provide the defendant's name, social security number, district court case number and county to the secretary of revenue in the manner and format agreed to by the office of judicial administration and the secretary.

(g) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

Sec. 73. K.S.A. 17-6520, 17-7514, 56-1a608, 56-1a610, 56a-105, 56a-1203, 56a-1204 and 79-1119 and K.S.A. 2022 Supp. 17-2036, 17-2718, 17-4634, 17-4677, 17-6002, 17-6004, 17-6008, 17-6010, 17-6011, 17-6014, 17-6301, 17-6305, 17-6401, 17-6408, 17-6410, 17-6413, 17-6426, 17-6427, 17-6428, 17-6502, 17-6503, 17-6509, 17-6512, 17-6514, 17-6518, 17-6522, 17-6701, 17-6702, 17-6703, 17-6705, 17-6706, 17-6707, 17-6708, 17-6712, 17-6804, 17-6812, 17-7001, 17-7002, 17-7003, 17-72a04, 17-72a05, 17-72a07, 17-7302, 17-7503, 17-7504, 17-7505, 17-7506, 17-7511, 17-76,136, 17-76,139, 17-78-102, 17-78-202, 17-78-203, 17-78-205, 17-78-302, 17-78-606, 17-7914, 17-7918, 17-7919, 17-7924, 17-7929, 17-7933, 56-1a605, 56-1a606, 56-1a607, 56a-1201, 56a-1202 and 79-3234 are hereby repealed.

Sec. 74. On and after January 1, 2024, K.S.A. 2022 Supp. 17-6712, as amended by section 36 of this act, and 17-72a03 are hereby repealed.

Sec. 75. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 20, 2023.

CHAPTER 67

Senate Substitute for HOUSE BILL No. 2053
(Amended by Chapter 91)

AN ACT concerning elections; providing for a presidential preference primary election; establishing voter registration and voting procedures for such election; amending K.S.A. 25-1122, 25-2311, 25-4501a, 25-4502, 25-4503, 25-4505, 25-4506 and 25-4507 and K.S.A. 2022 Supp. 25-3009 and repealing the existing sections.

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

Section 1. K.S.A. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter's current and valid Kansas driver's license number, nondriver's identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

(1) The voter is unable or refuses to provide current and valid identification; or

(2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter's name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter's identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records, except that

verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) (1) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

~~(1)(A)~~ For the primary election occurring on the first Tuesday in August in both even-numbered and odd-numbered years, between April 1 of such year and the Tuesday of the week preceding such primary election-;

~~(2)(B)~~ for the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the Tuesday of the week preceding such general election-;

~~(3)(C)~~ *for the presidential preference primary election held pursuant to K.S.A. 25-4501a, and amendments thereto, between January 1 of the year in which such election is held and 30 days prior to the day of such election;*

(D) for question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election-;

~~(4)(E)~~ for question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the Tuesday of the week preceding such question submitted

election, except that if the question submitted election is held on a day other than a Tuesday, the final date for mailing of advance voting ballots shall be one week before such election; *and*

~~(5)~~(F) for any special election of officers, at such time as is specified by the secretary of state.

(2) The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) (1) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

(2) An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

(3) The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness that has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information that establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered

voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year, the county election officer may mail a notice to such voter. The notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) (1) Any person who solicits by mail a registered voter to file an application for an advance voting ballot and includes an application for an advance voting ballot in such mailing shall include on the exterior of such mailing, and on each page contained therein, except the application, a clear and conspicuous label in 14-point font or larger that includes:

(A) The name of the individual or organization that caused such solicitation to be mailed;

(B) if an organization, the name of the president, chief executive officer or executive director of such organization;

(C) the address of such individual or organization; and

(D) the following statement: "Disclosure: This is not a government mailing. It is from a private individual or organization."

(2) The application for an advance voting ballot included in such mailing shall be the official application for advance ballot by mail provided by the secretary of state. No portion of such application shall be completed prior to mailing such application to the registered voter.

(3) An application for an advance voting ballot shall include an envelope addressed to the appropriate county election office for the mailing of such application. In no case shall the person who mails the application to the voter direct that the completed application be returned to such person.

(4) The provisions of this subsection shall not apply to:

(A) The secretary of state or any election official or county election office; or

(B) the official protection and advocacy for voting access agency for this state as designated pursuant to the federal help America vote act of 2002, public law 107-252, or any other entity required to provide information concerning elections and voting procedures by federal law.

(5) A violation of this subsection is a class C nonperson misdemeanor.

(1) (1) No person shall mail or cause to be mailed an application for an advance voting ballot, unless such person is a resident of this state or is otherwise domiciled in this state.

(2) Any individual may file a complaint in writing with the attorney general alleging a violation of this subsection. Such complaint shall include the name of the person alleged to have violated this subsection and any other information as required by the attorney general. Upon receipt of a complaint, the attorney general shall investigate and may file an action against any person found to have violated this subsection.

(3) Any person who violates the provisions of this subsection is subject to a civil penalty of \$20. Each instance in which a person mails an application for an advance voting ballot in violation of this section shall constitute a separate violation.

(m) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.

Sec. 2. K.S.A. 25-2311 is hereby amended to read as follows: 25-2311. (a) County election officers shall provide for the registration of voters at one or more places on all days except the following:

(1) Days when the main offices of the county government are closed for business, except as is otherwise provided by any county election officer under the provisions of K.S.A. 25-2312, and amendments thereto;

(2) days when the main offices of the city government are closed for business, in the case of deputy county election officers who are city clerks except as is otherwise provided by any county election officer under the provisions of K.S.A. 25-2312, and amendments thereto;

- (3) the 20 days preceding the day of primary and general elections;
- (4) *the 30 days preceding the day of any presidential preference primary election held pursuant to K.S.A. 25-4501a, and amendments thereto;*
- (5) the 20 days preceding the day of any election other than one specified in this subsection; and
- ~~(5)~~(6) the day of any primary or general election or any question submitted election.

(b) For the purposes of this section in counting days that registration books are to be closed, all of the days including Sunday and legal holidays shall be counted.

(c) The secretary of state shall notify every county election officer of the dates when registration shall be closed preceding primary and general elections. The days so specified by the secretary of state shall be conclusive. Such notice shall be given by the secretary of state by mail at least 60 days preceding every primary and general election.

(d) The last days before closing of registration books as directed by the secretary of state under subsection (c), county election officers shall provide for registration of voters during regular business hours, during the noon hours and at other than regular business hours upon such days as the county election officers deem necessary. The last three business days before closing of registration books prior to primary and general elections, county election officers may provide for registration of voters until 9 p.m. in any city.

(e) (1) *Except as provided in paragraph (2), county election officers shall accept and process applications received by voter registration agencies and the division of motor vehicles not later than the 21st day preceding the date of any election; or mailed voter registration applications that are postmarked not later than the 21st day preceding the date of any election; ~~or~~ except, if the postmark is illegible or missing, ~~is~~ mailed voter registration applications received in the mail not later than the ninth day preceding the day of any election.*

(2) *For any presidential preference primary election held pursuant to K.S.A. 25-4501a, and amendments thereto, county election officers shall accept and process applications received by voter registration agencies and the division of motor vehicles not later than the 31st day preceding the date of such election or mailed voter registration applications that are postmarked not later than the 31st day preceding such election except, if the postmark is illegible or missing, mailed voter registration applications received in the mail not later than the 19th day preceding the day of such election.*

(f) The secretary of state may adopt rules and regulations interpreting the provisions of this section and specifying the days when registration shall be open, days when registration shall be closed, and days when it is optional with the county election officer for registration to be open or closed.

(g) Before each primary and general election held in even-numbered and odd-numbered years, and at times and in a form prescribed by the secretary of state, each county election officer shall certify to the secretary of state the number of registered voters in each precinct of the county as shown by the registration books in the office of such county election officer.

Sec. 3. K.S.A. 2022 Supp. 25-3009 is hereby amended to read as follows: 25-3009. (a) After an election and prior to the meeting of the county board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit or tally of each vote cast, regardless of the method of voting, in 1% of all precincts, with a minimum of one precinct located within the county. The precinct or precincts shall be randomly selected and the selection shall take place after the election.

(b) (1) The audit shall be performed manually and shall review all paper ballots selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer shall determine the members of the sworn election board who will conduct the audit.

(2) The audit shall review contested races as follows:

(A) In presidential election years:

- (i) One federal race;
- (ii) one state legislative race; and
- (iii) one county race.

(B) In even-numbered, non-presidential election years:

- (i) One federal race;
- (ii) one statewide race;
- (iii) one state legislative race; and
- (iv) one county race.

(C) In even-numbered election years, any federal, statewide or state legislative race that is within 1% of the total number of votes cast tallied on election night, as determined by the secretary of state, shall be audited. The county election officer shall conduct the audit in the manner set forth in subsection (a) in 10% of all county precincts in the specified race, with a minimum of one precinct in the county. The precincts audited pursuant to this subsection shall be in addition to the precincts audited under subsections (2)(A) and (B).

(D) In odd-numbered election years, two local races will be randomly selected, and the selection shall take place after the election.

(E) *Any presidential preference election held pursuant to K.S.A. 25-4501a, and amendments thereto.*

(c) At least five days prior to the audit, notice of the time and location of the audit shall be provided to the public on the official county

website. The audit shall be conducted in a public setting. Any candidate or entity who is authorized to appoint a poll agent may appoint a poll agent for the audit.

(d) The results of the audit shall be compared to the unofficial election night returns and a report shall be submitted to the county election office and to the secretary of state's office prior to the meeting of the county board of canvassers. If a discrepancy is reported between the audit and the unofficial returns and cannot be resolved, the county election officer or the secretary of state may require audits of additional precincts. Once the audit has been completed, the results of the audit shall be used by the county board of canvassers when certifying the official election results.

(e) Upon publication of the notice of the audit pursuant to subsection (c), the signed and certified official abstracts required by K.S.A. 25-3006, and amendments thereto, shall be made available by the county election office for review by any authorized poll agent. Such abstracts shall be from all precincts and shall not be limited to those precincts that are subject to the audit. The abstracts shall be available for review until commencement of the original canvass.

(f) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precincts and offices involved in the audit.

Sec. 4. K.S.A. 25-4501a is hereby amended to read as follows: 25-4501a. *(a) Except as otherwise provided, each political party which that is a recognized political party in accordance with K.S.A. 25-302a, and amendments thereto, shall have procedures to select a presidential nominee and shall select a presidential nominee in accordance with such party procedures for the 2016 presidential election, and every fourth year thereafter.*

(b) (1) On March 19, 2024, for each political party that is a recognized political party in accordance with K.S.A. 25-302a, and amendments thereto, there shall be held a presidential preference primary election for the purpose of electing the preferred nominee of a political party for the office of president and vice president. Except as otherwise provided, the provisions of all applicable statutes concerning elections shall apply to such election.

(2) The provisions of this subsection shall not apply to any political party that is subject to K.S.A. 25-202(b), and amendments thereto, or that has submitted written notice to the secretary of state on or before December 1, 2023, that such political party has elected to not participate in the presidential preference primary election.

Sec. 5. K.S.A. 25-4502 is hereby amended to read as follows: 25-4502.

(a) Every registered elector who has declared such elector's party affiliation with a political party eligible to participate in a state primary election

shall have the opportunity to vote one vote at a presidential preference primary election for such elector's preference for one person to be the candidate for nomination by such candidate's party for president of the United States or for "none of the names shown." Any registered elector who has not declared such candidate's party affiliation prior to the election may make such a declaration at the polling place, and thereupon shall be permitted likewise the opportunity to vote one vote at the presidential preference primary. A vote for "none of the names shown" shall express the preference for an uncommitted delegation from Kansas to the national convention of that elector's party. Preference shall be indicated by marking with a cross or check mark inside a voting square or a darkened oval on the ballot at the left of the voter's choice, or by voting by using a voting machine.

(b) The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only if, *such candidate has filed the appropriate registration information with the federal election commission to become a candidate for president of the United States and one of the following is filed with the secretary of state not later than 12 noon, on the date which precedes by seven weeks that is 60 days prior to the date of the presidential preference primary or, if such date falls on Saturday, Sunday or a holiday, not later than 12 noon the following day that is not a Saturday, Sunday or holiday:*

(1) ~~The candidate files with the secretary of state~~ A declaration of intent to become a candidate *filed by the candidate and* accompanied by a fee of ~~\$100~~ \$10,000; or

(2) ~~there is filed in the office of secretary of state~~ a petition in the form prescribed by K.S.A. 25-205, and amendments thereto, signed by not less than ~~1,000~~ 5,000 registered electors, who are affiliated with the political party of such candidate as shown by the party affiliation list. The secretary of state shall determine the sufficiency of each such petition, and such determination shall be final.

(c) *All fees received by the secretary of state pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

Sec. 6. K.S.A. 25-4503 is hereby amended to read as follows: 25-4503. (a) The names of the candidates for nomination for president of the United States by a political party eligible to participate in a state primary election shall be printed on the official ballots for the presidential preference primary elections of their respective parties along with the choice of "none of the names shown." The ballots shall be marked, returned and canvassed in the same manner and under the same conditions, so far as

the same are applicable, as in the case of the primary election of candidates for nomination for state offices.

(b) The official presidential preference primary election ballots shall be printed in a single column and shall have the following heading:

OFFICIAL PRESIDENTIAL
PREFERENCE PRIMARY
ELECTION BALLOT

_____ Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square, or darken the oval, to the left of the name of the person for whom you desire to vote. To vote for “none of the names shown” make a cross or check mark in the square, or darken the oval, to the left of such words.

This shall be followed by the names of the candidates for president of the United States of such party in the manner and order certified by the secretary of state.

(c) (1) As soon as possible after the candidate filing deadline, the secretary of state shall certify to each county election officer the name of each person who is a candidate for nomination to be president of the United States of each party authorized to participate in the presidential preference primary election. The secretary of state shall publish, not less than ~~21~~ 31 days prior to the presidential preference primary, a notice in one newspaper in each county of the state where a newspaper is published, that the official list of candidates and the date of the election can be acquired in the office of the secretary of state or the office of the county election officer. *Such notice shall also be published on the secretary of state’s website and on the website of each county election office.*

(2) *After such publication, the secretary of state shall certify the amount of moneys expended on such publication and shall transmit a copy of such certification to the director of accounts and reports. Upon receipt of such certification, the director of accounts and reports shall transfer an amount of moneys equal to such certified amounts from the state general fund to the information services fee fund of the secretary of state and shall transmit a notification of such transfer to the director of legislative research and the director of the budget.*

(d) When a party participating in the presidential preference primary election has more than one candidate, the secretary of state shall determine by lot the order in which the candidates’ names will appear on the ballot. The order of names, as established by the secretary of state, shall be uniform in each county throughout the state.

(e) (1) *All such ballots that are received in the office of the county election officer or any polling place by the following times shall be delivered by the county election officer to the county board of canvassers for canvassing:*

(A) *For advance voting ballots transmitted in person, 12 noon on the day preceding such election; and*

(B) *for advance voting ballots transmitted by mail, the closing of the polls on the date of such election.*

(2) *An advance voting ballot shall not be counted if such ballot is received by the county election office or any polling place after the closing time of the polls on the date of such election.*

Sec. 7. K.S.A. 25-4505 is hereby amended to read as follows: 25-4505. (a) *Not later than eight days after a presidential preference primary election is held, the county board of canvassers of each county shall meet at the office of the county election officer, unless another place is agreed upon and announced as provided in K.S.A. 25-3105, and amendments thereto, at any time between 8:00 and 10:00 o'clock a.m. on the Friday following the day a presidential preference primary election is held and canvass the vote of such preference primary. The county election officer may move the canvass to the Monday next following the election if notice of such change is published prior to the canvass in a newspaper of general circulation within the county. Upon completion of such canvass, the county election officer of each county shall prepare an abstract of the vote of the presidential preference primary election in his or her such county as such vote is determined by the county board of canvassers and shall promptly transmit the same such abstract to the secretary of state no later than the tenth day after the day of the election. Each county election officer shall also post a copy of such abstract in a public place in the courthouse of his or her such county and on the website of such county election office.*

(b) *Every such transmittal shall be made by first class mail or by a messenger use of secure email transmission or other means approved by the secretary of state. If the secretary of state fails to receive the abstract of the canvass from any county within 14 days next after the election, he or she the secretary shall dispatch a special messenger to obtain a copy of the same such abstract, and the county election officer shall immediately, on demand of such messenger, make out and deliver to such messenger the copy required. Thereupon, The messenger shall deliver such copy to the secretary of state, and the secretary of state shall be reimbursed for the expenses of such messenger by such county.*

Sec. 8. K.S.A. 25-4506 is hereby amended to read as follows: 25-4506. (a) *Except as provided in subsection (b), the state board of canvassers shall meet at the call of the secretary of state following a presidential preference primary election. The secretary of state shall present to the board a tabulation of the results of such election in each county. The state board of canvassers shall consider the tabulation and make such further inquiries of the secretary of state as it deems appropriate and upon the information presented by the secretary of state and such additional infor-*

mation as it deems appropriate to consider, determine the result of such election. Provisions of law relating to the canvass of the national and state general elections shall, as far as applicable, apply to the canvass and certification of presidential preference primary elections. As soon as such final canvass of the election is completed, the secretary of state shall publish in the Kansas register a certified statement of the candidates for president of each party and the number of votes each received *on a statewide basis and for each congressional district* as determined by the state board of canvassers. *Such report of the final canvass shall be published on the secretary of state's website.*

(b) For any presidential preference primary election held in 2024, the state board of canvassers shall meet on or before April 12, 2024.

Sec. 9. K.S.A. 25-4507 is hereby amended to read as follows: 25-4507.

(a) Upon completion of the state canvass of the results of the presidential preference primary, the secretary of state shall certify to the state chairperson of each political party participating in the presidential preference primary the number of votes received by each candidate of that party and the number of votes for an uncommitted delegation received by that party.

~~(b) Each political party shall then select as many delegates and alternates to the national party convention as are allotted to it by the national committee of that party, according to K.S.A. 25-4506 and this section, and amendments thereto.~~

~~(c) No later than 60 days following the presidential preference primary, Delegates and alternates to a national party convention shall be selected by a party at its state convention, or as otherwise provided by party rules adopted by the committees of the political parties. The number of delegates and the number of alternates to a national party convention shall be determined according to party rules. Delegates and alternates to a national party convention shall be selected in the manner prescribed by party rules. The binding of delegates and alternates to a national party convention shall be determined by party rules. All such rules shall be filed with the secretary of state no not later than January 2, 1992, and no not later than January 2 every fourth year thereafter and such rules shall be published on the secretary of state's website.~~

Sec. 10. K.S.A. 25-1122, 25-2311, 25-4501a, 25-4502, 25-4503, 25-4505, 25-4506 and 25-4507 and K.S.A. 2022 Supp. 25-3009 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 20, 2023.

CHAPTER 68

SENATE BILL No. 17

AN ACT concerning housing; expanding the use of bond proceeds under the Kansas reinvestment housing incentive district act; transferability of income, privilege and premium tax credits issued under the Kansas housing investor tax credit act; amending K.S.A. 12-5241, 12-5242, 12-5243, 12-5244, 12-5247, 12-5249 and 12-5252 and K.S.A. 2022 Supp. 79-32,313 and repealing the existing sections.

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

New Section 1. (a) The governing body of any city that satisfies the definition of such term under K.S.A. 12-5242(a)(2), and amendments thereto, is hereby authorized to designate reinvestment housing incentive districts within such city subject to the limitations of this section. Such city shall be subject to the provisions of K.S.A. 12-5244 through 12-5252, and amendments thereto.

(b) (1) The governing body of a city establishing a reinvestment housing incentive district under this section shall not:

(A) Designate more than 100 units within such district as for-sale units in one year or more than 100 units within such district as for-rent units in one year; and

(B) designate more than 50 units within such district associated with a single project as for-sale units in one year or more than 50 units within such district associated with a single project as for-rent units in one year.

(2) Units designated as for-sale units may be redesignated as for-rent units by the governing body if such units have not been sold within six months after the certificate of occupancy is granted.

(3) The governing body may designate for-sale and for-rent units for succeeding years as part of a proposed multi-phased, multi-year development plan adopted pursuant to K.S.A. 12-5246, and amendments thereto.

(c) The average size of each residence constructed per project within a reinvestment housing incentive district established under this section shall not exceed 1,650 square feet. The square footage shall be calculated excluding any garage area or other exterior area, such as porches, patios or unattached storage buildings.

(d) The provisions of this section shall be a part of and supplemental to the Kansas reinvestment housing incentive district act.

Sec. 2. K.S.A. 12-5241 is hereby amended to read as follows: 12-5241. ~~This act~~ *The provisions of K.S.A. 12-5241 through 12-5256, and amendments thereto, and section 1, and amendments thereto, shall be known and may be cited as the Kansas ~~real~~ reinvestment housing incentive district act.*

Sec. 3. K.S.A. 12-5242 is hereby amended to read as follows: 12-5242. Except as otherwise provided, as used in K.S.A. 12-5241 through

12-5251, and amendments thereto, and K.S.A. 12-5252 through 12-5258, and amendments thereto:

(a) “City” means the city of Topeka or any city incorporated in accordance with Kansas law:

(1) With a population of less than 60,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto; ~~or~~

(2) *for the purposes of a project subject to section 1, and amendments thereto, with a population of 60,000 or more, as certified to the secretary of state by the director of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto, except the city of Topeka; or*

(3) for purposes of a project as defined in K.S.A. 12-5249(a)(11), and amendments thereto, within a qualified census tract, “city” includes any city with a qualified census tract located within the city.

(b) “City housing authority” means any agency of a city created pursuant to the municipal housing law, K.S.A. 17-2337 et seq., and amendments thereto.

(c) “Corporation” means the Kansas housing resources corporation.

(d) “County” means any county organized in accordance with K.S.A. 18-101 et seq., and amendments thereto:

(1) With a population of less than ~~80,000~~ 85,000, as certified to the secretary of state by the director of the division of the budget on the previous July ~~1st~~ 1 in accordance with K.S.A. 11-201, and amendments thereto; or

(2) for purposes of a project as defined in K.S.A. 12-5249(a)(11), and amendments thereto, within a qualified census tract, “county” includes any county with a qualified census tract located within the county.

(e) “Developer” means the person, firm or corporation responsible under an agreement with the governing body to develop housing or related public facilities in a district.

(f) “District” means a ~~rural~~ *reinvestment* housing incentive district established in accordance with this act.

(g) “Governing body” means the board of county commissioners of any county or the mayor and council, mayor and commissioners or board of commissioners, as the laws affecting the organization and status of cities affected may provide.

(h) “Housing development activities” means the construction or rehabilitation of infrastructure necessary to support construction of new residential dwellings and the actual construction of such residential dwellings, if such construction is conducted by a city housing authority.

(i) “Secretary” means the secretary of commerce of the state of Kansas.

(j) “Qualified census tract” means an economically distressed urban area that is a qualified census tract as defined and designated by the United States department of housing and urban development.

(k) “Real property taxes” means and includes all taxes levied on an ad valorem basis upon land and improvements thereon.

(l) “Taxing subdivision” means the county, the city, the unified school district, and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created ~~rural~~ *reinvestment* housing incentive district.

Sec. 4. K.S.A. 12-5243 is hereby amended to read as follows: 12-5243. It is hereby declared to be the purpose of this act to encourage the development and renovation of housing in ~~the rural~~ cities and counties of Kansas by authorizing cities and counties to assist directly in the financing of public improvements that will support such housing in ~~rural~~ areas of Kansas ~~which~~ that experience a shortage of housing.

Sec. 5. K.S.A. 12-5244 is hereby amended to read as follows: 12-5244. (a) The governing body of any city or county is hereby authorized to designate ~~rural~~ *reinvestment* housing incentive districts within such city or county. Any city governing body may designate one or more such districts in such city, and any county governing body may designate one or more such districts in any part of the unincorporated territory of such county. Prior to making such a designation, the governing body shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community. After conducting the analysis, the governing body shall adopt a resolution containing a legal description of the proposed district, a map depicting the existing parcels of real estate in the proposed district, and a statement of the following findings and determinations:

(1) There is a shortage of quality housing of various price ranges in the city or county despite the best efforts of public and private housing developers;

(2) the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in such city or county;

(3) the shortage of quality housing is a substantial deterrent to the future economic growth and development of such city or county; and

(4) the future economic well-being of the city or county depends on the governing body providing additional incentives for the construction or renovation of quality housing in such city or county.

(b) The resolution containing the findings contained in subsection (a) shall be published at least once in the official newspaper of the city or county.

(c) Upon publication of the resolution as provided in subsection (b), the governing body shall send a certified copy of the resolution to the secretary, requesting that the secretary review the resolution and advise the governing body whether the secretary agrees with the findings contained therein. If the secretary advises the governing body in writing that the

secretary agrees with each of the findings of the governing body, the governing body may proceed to establish the district as set forth in this act. If the secretary fails to agree with the findings, the secretary shall advise the governing body in writing of the specific reasons therefor.

Sec. 6. K.S.A. 12-5247 is hereby amended to read as follows: 12-5247.

(a) Any governing body ~~which~~ *that* has established a ~~rural~~ *reinvestment* housing incentive district as provided in this act may purchase or otherwise acquire real property; however, the property may not be acquired through the exercise of the power of eminent domain. Relocation assistance payments shall be provided by the city or county in accordance with the provisions of K.S.A. 12-1777, and amendments thereto, to any tenants required to be relocated as a result of the acquisition of such property for any project in the district.

(b) Any property acquired by a city or county under this act may be sold or leased to any developer, in accordance with the ~~rural~~ *reinvestment* housing incentive plan and under such conditions as shall have been agreed to prior to the adoption of the plan. The city or county and the developer may agree to any additional terms and conditions, but if the developer requests to be released from any obligations agreed to and embodied in the plan, such release shall constitute a substantial change and subject to the requirements provided in ~~subsection (b) of~~ K.S.A. 12-5246(b), *and amendments thereto*.

Sec. 7. K.S.A. 12-5249 is hereby amended to read as follows: 12-5249.

(a) Any city or county that has established a ~~rural~~ *reinvestment* housing incentive district may use the proceeds of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, or any uncommitted funds derived from those sources of revenue set forth in K.S.A. 12-5248(a)(1), and amendments thereto, to implement specific projects identified within the ~~rural~~ *reinvestment* housing incentive district plan including, without limitation:

(1) Acquisition of property within the specific project area or areas as provided in K.S.A. 12-5247, and amendments thereto;

(2) payment of relocation assistance;

(3) site preparation;

(4) sanitary and storm sewers and lift stations;

(5) drainage conduits, channels and levees;

(6) street grading, paving, graveling, macadamizing, curbing, guttering and surfacing;

(7) street lighting fixtures, connection and facilities;

(8) underground gas, water, heating, and electrical services and connections located within the public right-of-way;

(9) sidewalks;

(10) water mains and extensions; ~~and~~

(11) renovation of buildings or other structures more than 25 years of age primarily for residential use located in a central business district or in a business or commercial district within a qualified census tract as approved by the secretary of commerce. Certification of the age of the building or other structure shall be submitted to the secretary by the governing body of the city or county with the resolution as provided by K.S.A. 12-5244, and amendments thereto. Eligible residential improvements shall include only improvements made to the second or higher floors of a building or other structure. Improvements for commercial purposes shall not be eligible; and

(12) *renovation or construction of residential dwellings, multi-family units or buildings or other structures exclusively for residential use located on existing lots if:*

(A) *The infrastructure, including streets, sewer, water and utilities, has been in existence for at least 10 years; or*

(B) *the existing lot has been subject to any tax assessment levied pursuant to chapter 12, article 6a or chapter 19, article 27 of the Kansas Statutes Annotated, and amendments thereto, because such lot is located in an improvement district established pursuant to chapter 12, article 6a or chapter 19, article 27 of the Kansas Statutes Annotated, and amendments thereto.*

(b) None of the proceeds from the sale of special obligation bonds issued under K.S.A. 12-5248, and amendments thereto, shall be used for the construction of buildings or other structures to be owned by or to be leased to any developer of a residential housing project within the district, except for buildings or other structures located in a central business district or in a business or commercial district within a qualified census tract as approved by the secretary of commerce.

Sec. 8. K.S.A. 12-5252 is hereby amended to read as follows: 12-5252.

(a) Any city that prior to July 1, 2013, is located, in whole or in part, within the boundaries of a county designated by the United States federal emergency management agency under major disaster declaration FEMA-1711-DR or FEMA-1699, as eligible to receive individual or public assistance from the United States federal government that desires to designate a ~~rural~~ *reinvestment* housing incentive district pursuant to this act or such county shall be exempt from the provisions of ~~subsection (c) of~~ K.S.A. 12-5244(c), and amendments thereto, and may adopt a plan for a designated ~~rural~~ *reinvestment* housing incentive district without the approval of the secretary and without conducting a public hearing on such proposed plan.

(b) For any city in a county declared by the governor to be a state of disaster after January 1, 2008, or such county if the governor finds that such disaster resulted in the destruction of a significant amount of residential housing in such city or county the governor may designate

such city or county to exercise the exemption authorized by subsection (a) for a period of five years from the date of the declaration of a state of disaster.

(c) Nothing in this section shall be construed so as to exempt a city or county from any other requirement set forth in this act, or to limit any of the rights, duties and privileges of a city or county under any other provisions of this act.

Sec. 9. K.S.A. 2022 Supp. 79-32,313 is hereby amended to read as follows: 79-32,313. (a) (1) For tax year 2022 and all tax years thereafter, a credit against the income tax liability imposed pursuant to the Kansas income tax act, the privilege tax liability imposed upon any national banking association, state bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or the premium tax liability imposed upon an insurance company pursuant to K.S.A. 40-252, and amendments thereto, shall be allowed to:

(A) A qualified investor for a cash investment in a qualified housing project that has been approved and issued a tax credit by the director. The tax credit may be claimed in its entirety in the taxable year the cash investment is made; and

(B) a project builder or developer of a qualified housing project that has been approved and issued a tax credit by the director.

(2) To claim such tax credit, the qualified investor~~or~~, project builder or developer *or transferee* shall provide all information or documentation in the form and manner required by the secretary of revenue. If the amount of the credit exceeds the taxpayer's tax liability in any one taxable year, the remaining portion of the credit may be carried forward in the succeeding taxable years until the total amount of the credit is used, except that no credit may be claimed after four taxable years next succeeding the taxable year that such credit was issued, and any remaining credit shall be forfeited. *Any portion of the credit that is carried forward may be transferred pursuant to subsection (d) and claimed by the transferee in the same manner as the transferor.*

(b) (1) Tax credits may be issued by the director for a qualified housing project as follows:

(A) For qualified housing projects located in a county with a population of not more than 8,000, in an amount not to exceed \$35,000 per residential unit;

(B) for qualified housing projects located in a county with a population of more than 8,000 but not more than 25,000, in an amount not to exceed \$32,000 per residential unit; and

(C) for all other qualified housing projects, in an amount not to exceed \$30,000.

(2) A qualified housing project shall be limited to a total of 40 such residential units per year for both single-family and multi-family dwellings.

(3) Tax credits may be issued to a qualified investor in the amount of a cash investment of up to the total amount that may be issued by the director under this subsection for the qualified housing project, or as provided in the agreement required by K.S.A. 2022 Supp. 79-32,312, and amendments thereto. Project builders or developers may apply to the director each year for tax credits for additional units or phases of a project. Qualified investors may be issued tax credits for cash investments in multiple qualified housing projects. Project builders or developers may apply and be approved for multiple qualified housing projects in the same tax year.

(4) The aggregate amount of tax credits that may be issued under this section shall not exceed \$13,000,000 each tax year, except that if the director issues an aggregate amount of tax credits in one tax year that is less than \$13,000,000, then the director may carry forward the difference and issue such amount of tax credits in the immediately succeeding tax year in addition to the statutory amount that may be issued under this section. Of the aggregate amount of tax credits issued in one tax year, the director shall allocate:

(A) Not less than \$2,500,000 in tax credits for qualified housing projects located in counties with a population of not more than 8,000;

(B) not less than \$2,500,000 in tax credits for qualified housing projects located in counties with a population of more than 8,000 but not more than 25,000; and

(C) up to \$8,000,000 in tax credits for qualified housing projects located in counties with a population of more than 25,000 but not more than 75,000.

(c) A cash investment in a qualified housing project shall be deemed to have been made on the date of acquisition of the qualified security, as such date is determined by the director.

(d) Any qualified investor ~~without a current tax liability at the time of the investment in a qualified housing project that does not reasonably believe such investor will owe any such tax for the current taxable year~~ and who receives a tax credit pursuant to this section shall be deemed to acquire an interest in the nature of a transferable credit limited to the amount of the credit issued to the qualified investor by the director. ~~This interest~~ *All or a portion of such credit may be transferred by the qualified investor or any subsequent transferee to any person one or more persons whether or not such person transferee is then a qualified investor and be claimed by the transferee as a credit against the transferee's Kansas tax liability in the same manner as the transferor beginning in the year the credit is transferred. The credit may be carried forward as permitted by subsection (a). There shall be no limit on the number of times a credit or*

any portion thereof can be transferred. No person shall be entitled to a refund for any interest on such tax credit that may be created under this section. ~~Only the full amount of the tax credit for any one qualified housing project investment may be transferred and may only be transferred one time.~~ A credit acquired by transfer shall be subject to the limitations prescribed in this section. *Any such transferee succeeds to all remaining rights and restrictions of the transferor with respect to the credit being transferred on the date of such transfer.* Documentation of any credit acquired by transfer shall be provided by the taxpayer claiming such credit in the manner required by the secretary of revenue. The qualified investor *or subsequent transferee* transferring such credit shall provide the director and the secretary of revenue with the name, address and taxpayer identification number of each person to whom ~~tax~~ credits have been transferred and such other information as may be required by the director or the secretary of revenue. *The provisions of this subsection shall apply to credits issued for tax year 2022 and all tax years thereafter.*

(e) The secretary of revenue may adopt rules and regulations as necessary to implement and administer the provisions of this act.

(f) *For purposes of calculating any tax due under K.S.A. 40-253, and amendments thereto, the credit allowed by this section shall be treated as a tax paid under K.S.A. 40-252, and amendments thereto.*

Sec. 10. K.S.A. 12-5241, 12-5242, 12-5243, 12-5244, 12-5247, 12-5249 and 12-5252 and K.S.A. 2022 Supp. 79-32,313 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 20, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 69

House Substitute for SENATE BILL No. 229

AN ACT concerning the compensation, salary and retirement benefits of certain state officials; creating the legislative compensation commission; prescribing powers and duties of the commission; authorizing the commission to set rates of compensation and salary for members of the legislature; establishing procedures for review and possible rejection of such rates of compensation and salary by the legislature; eliminating the previously established compensation commission; relating to the salaries of the governor, lieutenant governor, attorney general, secretary of state, state treasurer and commissioner of insurance; establishing the rate of pay for such state officials based on the annual rate of pay for members of congress, as adjusted by the provisions of this act; relating to the salaries of the justices of the supreme court, judges of the court of appeals, district court judges and district magistrate judges; establishing the rate of pay for such justices and judges based on the annual rate of pay for a district judge of the United States, as adjusted by the provisions of this act; amending K.S.A. 20-2616, 22a-105, 40-102, 75-3103 and 75-3120k and K.S.A. 2022 Supp. 20-318 and repealing the existing sections; also repealing K.S.A. 46-3101, 75-3101, 75-3104, 75-3108, 75-3110, 75-3111a, 75-3120f, 75-3120g, 75-3120h and 75-3120l.

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

New Section 1. (a) There is created the legislative compensation commission consisting of nine members as follows:

- (1) One member appointed by the speaker of the house of representatives. Such member appointed by the speaker shall be a former member of the legislature;
- (2) one member appointed by the president of the senate. Such member appointed by the president shall be a former member of the legislature;
- (3) one member appointed by the speaker pro tempore of the house of representatives;
- (4) one member appointed by the vice president of the senate;
- (5) one member appointed by the majority leader of the house of representatives;
- (6) one member appointed by the majority leader of the senate;
- (7) one member appointed by the minority leader of the house of representatives;
- (8) one member appointed by the minority leader of the senate; and
- (9) one member appointed by the governor.

(b) The initial member appointed by the speaker shall be appointed prior to August 1, 2023. All other initial members shall be appointed prior to September 1, 2023.

(c) No person shall be appointed to the commission who is a current member of the legislature, a current employee of the legislature or a registered lobbyist.

(d) The member appointed by the speaker shall serve as the first chairperson of the commission. The member appointed by the president shall

serve as the first vice chairperson of the commission. Thereafter, the next chairperson to be appointed prior to August 1, 2026, shall be appointed by the president and the next vice chairperson to be appointed prior to September 1, 2026, shall be appointed by the speaker. The authority to appoint the chairperson and vice chairperson for future commissions shall alternate between the speaker and the president in similar manner as for the original appointments. Vacancies shall be filled in the same manner as for the original appointments.

(e) Any member of the commission shall be eligible for reappointment.

(f) The term of each appointment to the commission shall end upon the completion of the responsibilities of the commission pursuant to subsections (h) and (i).

(g) The commission shall meet upon call of the chairperson. A majority of the members of the commission shall constitute a quorum for the transaction of any business of the commission. Any action taken by the commission shall be by majority vote of the members present.

(h) The legislative compensation commission shall:

(1) Make a comprehensive study of the compensation, salary and retirement benefits of the members of the legislature;

(2) set the rates of compensation and salary for members of the legislature to be effective as provided in subsection (i); and

(3) make recommendations related to retirement benefits for members of the legislature.

(i) In 2023, the legislative compensation commission shall establish the rate of compensation and salary for services rendered by members of the legislature during the four-year period that commences on the first day of the term of office that commences on the first day of the legislative session in January of 2025. Such rate of compensation and salary established by the commission shall be submitted to the legislature on or before December 1, 2023. Such rate of compensation and salary established by the commission shall be the rate of compensation and salary for members of the legislature unless, prior to 30 days after the commencement of the legislative session next occurring after submission of such established rate of compensation and salary to the legislature, the legislature rejects such rate of compensation and salary by the adoption of a concurrent resolution. In the concurrent resolution that rejects such rate of compensation and salary, the legislature may include a requirement that the legislative compensation commission meet within 14 days after the adoption of the concurrent resolution by the legislature to set another rate of compensation and salary to be submitted to the legislature prior to 30 days after such adoption of the concurrent resolution. The legislature may reject such rate of compensation and salary by the adoption of a concurrent resolution prior to adjournment sine die of

that legislative session. In the event of rejection by the legislature of the second rate of compensation and salary set by the commission, the rate of compensation and salary prevailing at the time of the previous session shall remain in effect.

(j) (1) New members of the commission shall be appointed in 2026 and every four years thereafter. The member designated as chairperson of the commission pursuant to subsection (d) shall be appointed prior to August 1 of such year. All other members of the commission shall be appointed prior to September 1 of such year.

(2) Commissions appointed in 2026 and thereafter may meet on call of the chairperson during the calendar year when appointed or the following calendar year. The commission shall set the rate of compensation and salary for members of the legislature to be effective during the four-year period that commences on the first day of the next commencing term of office of elected senators. The commission shall submit such rate of compensation and salary to the legislature on or before December 1 of the calendar year following the commission's appointment.

(3) The legislature may take such actions as provided in subsection (i) during the legislative session next occurring after the submission of such rate of compensation and salary as provided in paragraph (2).

(k) Members of the commission shall receive compensation, subsistence allowances, mileage and expenses as provided in K.S.A. 75-3223, and amendments thereto, when attending meetings of the commission.

New Sec. 2. (a) Subject to appropriations and except as provided further, on January 1, 2025, and each January 1 thereafter:

(1) The governor shall receive for services an annual salary equal to the amount of annual rate of pay for a member of congress of the United States, not in a leadership role, on such date;

(2) the attorney general shall receive for services an annual salary equal to the amount of annual rate of pay for a member of congress of the United States, not in a leadership role, on such date, minus 2.5% of such congressional annual rate of pay; and

(3) the secretary of state, state treasurer and commissioner of insurance shall receive for services an annual salary equal to the amount of annual rate of pay for a member of congress of the United States, not in a leadership role, on such date, minus 7.5% of such congressional annual rate of pay.

(b) If, for any reason, such congressional salary is decreased, the salaries established in this section shall remain the same for the next ensuing fiscal year unless diminished by general law applicable to all salaried officers of the state.

New Sec. 3. (a) Subject to appropriations and except as provided further, on January 1, 2025, and each January 1 thereafter:

(1) A district judge who is not a chief judge of a judicial district shall receive for services an annual salary equal to 75% of the annual rate of pay for a district judge of the United States on such date;

(2) a district magistrate judge shall receive for services an annual salary equal to 55% of a district judge's salary as determined pursuant to subsection (a)(1);

(3) a chief judge of the district court shall receive for services an annual salary equal to 105% of a district judge's salary as determined pursuant to subsection (a)(1);

(4) a judge of the court of appeals who is not chief judge of the court of appeals shall receive for services an annual salary equal to 110% of a district judge's salary as determined pursuant to subsection (a)(1);

(5) the chief judge of the court of appeals shall receive for services an annual salary equal to 115% of a district judge's salary as determined pursuant to subsection (a)(1);

(6) a justice of the supreme court who is not chief justice of the supreme court shall receive for services an annual salary equal to 120% of a district judge's salary as determined pursuant to subsection (a)(1); and

(7) the chief justice of the supreme court shall receive for services an annual salary equal to 125% of a district judge's salary as determined pursuant to subsection (a)(1).

(b) If, for any reason, such district judge of the United States salary is decreased, the salaries established in this section shall remain the same for the next ensuing fiscal year unless diminished by general law applicable to all salaried officers of the state.

Sec. 4. On and after January 1, 2025, K.S.A. 2022 Supp. 20-318 is hereby amended to read as follows: 20-318. (a) There is hereby created within the state of Kansas; a judicial department for the supervision of all courts in the state of Kansas. The supreme court shall divide the state into separate sections, not to exceed six in number, to be known as judicial departments, each of which shall be assigned a designation to distinguish it from the other departments. A justice of the supreme court shall be assigned as departmental justice for each judicial department.

(b) There is created hereby the position of judicial administrator of the courts, who shall be appointed by the chief justice of the supreme court to serve at the will of the chief justice. The judicial administrator shall have a broad knowledge of judicial administration and substantial prior experience in an administrative capacity. No person appointed as judicial administrator shall engage in the practice of law while serving in such capacity. Compensation of the judicial administrator shall be determined by the justices, ~~but shall not exceed the salary authorized by law for the judge of the district court.~~ The judicial administrator shall be responsible to the chief justice of the supreme court of the state of Kansas;

and shall implement the policies of the court with respect to the operation and administration of the courts, subject to the provisions of K.S.A. 2022 Supp. 20-384, and amendments thereto, under the supervision of the chief justice. The administrator shall perform such other duties as are provided by law or assigned by the supreme court or the chief justice.

(c) Expenditures from appropriations for district court operations to be paid by the state shall be made on vouchers approved by the judicial administrator. All claims for salaries, wages or other compensation for district court operations to be paid by the state shall be certified as provided in K.S.A. 75-3731, and amendments thereto, by the judicial administrator.

Sec. 5. On and after January 1, 2025, K.S.A. 20-2616 is hereby amended to read as follows: 20-2616. (a) Any retired justice of the supreme court, retired judge of the court of appeals, retired district judge or retired associate district judge may be designated and assigned to perform such judicial service and duties as such retired justice or judge is willing to undertake. Designation and assignment of a retired justice or judge in connection with any matter pending in the supreme court shall be made by the supreme court. Designation and assignment of a retired justice or judge in connection with any matter pending in any other court, including any court located within the judicial district in which the justice or judge resides, or to perform any other judicial service or duties shall be made by the chief justice of the supreme court. Any such judicial service or duties shall include necessary preparation and other out-of-court judicial service for hearings or for deciding matters or cases in conjunction with the judicial services and duties assigned under this section. Any designation and assignment may be revoked in the same manner and all such designations and assignments and revocations shall be filed of record in the office of the clerk of the court to which such assignment is made.

(b) A retired justice or judge so designated and assigned to perform judicial service or duties shall have the power and authority to hear and determine all matters covered by the assignment.

(c) Except as otherwise provided in this section, each retired justice or judge who performs judicial service or duties under this section shall receive: (1) Per diem compensation at the rate of per diem compensation in effect under K.S.A. 46-137a, and amendments thereto;; (2) a per diem subsistence allowance at the per diem subsistence allowance rate in effect under K.S.A. 46-137a, and amendments thereto;; (3) a mileage allowance at the rate fixed under K.S.A. 75-3203a, and amendments thereto;; and (4) all actual and necessary expenses for other than subsistence or travel, including necessary stenographic assistance, as may be incurred in performing such service or duties.

(d) No retired justice or judge shall be entitled to receive per diem compensation under this section for any day in a fiscal year after the date

that the total of (1) the amount of per diem compensation earned under this section during that fiscal year and (2) the amount of the retirement annuity payable to such retired justice or judge for that fiscal year under the retirement system for judges, becomes equal to or more than the amount of the current annual salary of a district judge paid by the state under ~~K.S.A. 75-3120g~~ *section 3*, and amendments thereto, but such retired justice or judge shall receive the subsistence allowance, mileage allowance and actual and necessary expenses as provided under this section after such date.

(e) As used in this section, a retired justice or judge shall not include those justices or judges who were not retained in office, were not reelected to office, have been impeached from office or removed by the supreme court from office.

Sec. 6. On and after January 1, 2025, K.S.A. 22a-105 is hereby amended to read as follows: 22a-105. Each of the district attorneys elected under this act shall receive an annual salary in the amount of no less than the salary provided for district judges in ~~K.S.A. 75-3120g~~ *section 3*, and amendments thereto. The salary of each district attorney shall be paid by the county comprising the judicial district in which the district attorney is elected in equal monthly installments and in the manner county officers and employees are paid. The district attorneys and their deputies and assistants shall be reimbursed for their actual travel and subsistence expenses incurred while in the performance of their official duties within or without the district.

Sec. 7. On and after January 1, 2025, K.S.A. 40-102 is hereby amended to read as follows: 40-102. There is hereby established a department to be known as the insurance department, ~~which~~ *and such department* shall have a chief officer entitled the commissioner of insurance ~~who shall receive, except as otherwise provided in K.S.A. 75-3111a, and amendments thereto, a salary at a biweekly pay rate of \$3,307.81, and such officer.~~ *The commissioner of insurance* shall be charged with the administration of all laws relating to insurance, insurance companies and fraternal benefit societies doing business in this state, and all other duties ~~which~~ *that* are or may be imposed upon such officer by law.

Sec. 8. On and after January 1, 2025, K.S.A. 75-3103 is hereby amended to read as follows: 75-3103. (a) The lieutenant governor shall receive, as reimbursement for expenses ~~the following: (1) Biweekly the sum of \$76.91, except as otherwise provided in subsection (c), and (2) when attending the duties of office or attending any authorized meeting, in addition to other provisions of this section, travel expenses and subsistence expenses and allowances in amounts equal to those provided for by K.S.A. 75-3212, and amendments thereto.~~

~~(b)~~ In addition to any other compensation provided by law ~~and except as otherwise provided in K.S.A. 75-3111a, and amendments thereto,~~ the lieutenant governor shall also receive for services in the performance of duties imposed by law compensation at the biweekly pay rate of \$1,204.35 ~~an annual salary equal to 25% of the amount of annual rate of pay for a member of congress of the United States, not in a leadership role, on such date.~~ While acting as governor, the lieutenant governor shall receive the same salary as the governor. The lieutenant governor may appoint an administrative assistant and ~~other office and stenographic~~ employees, all of whom shall be in the unclassified service of the Kansas civil service act. Such administrative assistant shall receive travel expenses and subsistence expenses or allowances as provided by K.S.A. 75-3212, and amendments thereto, when traveling as authorized by the lieutenant governor.

~~(b)~~(c) If the lieutenant governor is appointed by the governor under the provision of K.S.A. 75-303, and amendments thereto, the lieutenant governor shall receive a salary ~~to be fixed by the governor pursuant to section 3, and amendments thereto,~~ or a salary as provided for in subsection ~~(a) of this section~~ (b), whichever is greater.

~~(e)~~ Whenever the rates of compensation of the pay plan for persons in the classified service under the Kansas civil service act are increased for payroll periods chargeable to fiscal years commencing after June 30, 2009, the sum provided biweekly for reimbursement of expenses pursuant to subsection (a)(1) for the lieutenant governor shall be increased on the effective date of any such pay plan increase by an amount computed by multiplying the average of the percentage increases in all steps of such pay plan by the biweekly sum provided to the lieutenant governor for reimbursement of expenses as authorized by this section.

Sec. 9. On and after January 1, 2025, K.S.A. 75-3120k is hereby amended to read as follows: 75-3120k. (a) ~~The annual salary of district magistrate judges shall be paid in equal installments each payroll period in accordance with this section.~~

~~(b)~~ Subject to the provisions of subsection (c) and except as otherwise provided in K.S.A. 75-3120l, and amendments thereto, the annual salary of district magistrate judges shall be \$59,059.

~~(e)~~ Within the limits of the appropriations therefor, the county or counties comprising the judicial district may supplement the salary of, or pay any compensation to, any district magistrate judge. Any such supplemental salary or compensation shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the district magistrate judge supplemental compensation fund. Any associated employer contributions and payments with respect to such supplemental salary or compensation that are made payable under law shall be paid by the county or counties providing

such supplemental salary or compensation, in addition to such supplemental salary or compensation, in the same manner and under the same conditions and requirements as compensation payable pursuant to ~~subsection (b)~~ *section 3, and amendments thereto*. All such associated employer contributions and payments shall be remitted for deposit in the state treasury and shall be credited to the district magistrate supplemental compensation fund at the same time and in the same manner as such supplemental salary or compensation. As used in this section, employer contributions shall include, and the county or counties shall be required to contribute, employer contributions required pursuant to K.S.A. 20-2605, and amendments thereto, for any district magistrate judge who is a member of the retirement system for judges.

~~(d)~~(b) There is hereby established in the state treasury the district magistrate judge supplemental compensation fund.

~~(e)~~(c) All moneys credited to the district magistrate judge supplemental compensation fund shall be paid to, or on behalf of, the district magistrate judge or district magistrate judges for whom such moneys were remitted by the county or counties subject to the same conditions or restrictions imposed or prescribed by law, including any applicable withholding or other taxes, associated employer contributions and authorized payroll deductions.

~~(f)~~(d) All expenditures from the district magistrate judge supplemental compensation fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to payrolls approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

~~(g)~~(e) All salary or other compensation under this section shall be considered to be compensation provided by law for services as a district magistrate judge for all purposes under law.

Sec. 10. K.S.A. 46-3101 is hereby repealed.

Sec. 11. On and after January 1, 2025, K.S.A. 20-2616, 22a-105, 40-102, 75-3101, 75-3103, 75-3104, 75-3108, 75-3110, 75-3111a, 75-3120f, 75-3120g, 75-3120h, 75-3120k and 75-3120l and K.S.A. 2022 Supp. 20-318 are hereby repealed.

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

Approved April 20, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 70

HOUSE BILL No. 2024

AN ACT concerning children and minors; relating to the revised Kansas code for care of children, federal Indian child welfare act, newborn infant protection act; relating to procedures in investigations of child abuse or neglect; requiring a child abuse review and evaluation referral; creating a program in the department of health and environment for the training and payment for child abuse reviews and exams; enacting the Representative Gail Finney memorial foster care bill of rights; granting rights to kinship caregivers under the revised Kansas code for care of children; allowing the surrender of physical custody of an infant to a newborn safety device; requiring inquiries and reporting of Indian child status; adding the requirement of great bodily harm to the crime of child abandonment to qualify for immunity; amending K.S.A. 38-2202, 38-2203, 38-2226, 38-2258, 38-2261 and 38-2282 and K.S.A. 2022 Supp. 21-5605 and repealing the existing sections.

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

New Section 1. (a) (1) When an investigation of child abuse or neglect conducted pursuant to K.S.A. 38-2226, and amendments thereto, includes a CARE referral that a child abuse medical resource center has recommended a CARE exam be conducted and the CARE provider determines a child has been subjected to physical abuse, emotional abuse, medical neglect or physical neglect, such determination shall be reported in a completed review and provided to the secretary for children and families and the local law enforcement agency or the agency's designee.

(2) When the secretary receives a completed review pursuant to paragraph (1), the secretary shall consider and include the completed review in making recommendations regarding the care, safety and placement of the child and maintain the completed review in the case record.

(3) Reviews conducted pursuant to paragraph (1) shall be confidential and not be disclosed except as provided in this section and K.S.A. 38-2209 through 38-2213, and amendments thereto.

(b) To provide forensic evaluation services to a child alleged to be a victim of physical abuse, emotional abuse, medical neglect or physical neglect in investigations that include a CARE exam:

(1) Child abuse medical resource centers may collaborate directly or through technology with CARE providers to provide forensic medical evaluations, medical training, support, mentoring and peer review to enhance the skill and role of child abuse medical resource centers and the CARE providers in a multidisciplinary context;

(2) CARE providers and child abuse medical resource centers shall provide and receive specialized training for medical evaluations conducted in a hospital, child advocacy center or by a private healthcare professional without the need for an agreement between such center and provider; and

(3) the CARE network shall develop recommendations concerning the medical-based screening process and forensic evidence collection for a child and provide such recommendations to CARE providers, child advocacy centers, hospitals and licensed practitioners.

(c) To implement and administer this section, the secretary of health and environment shall:

(1) Provide training for CARE providers to establish and maintain compliance with the requirements of K.S.A. 38-2202, and amendments thereto;

(2) assist in the implementation of subsection (b);

(3) pay for and manage a network referral system database; and

(4) adopt rules and regulations as necessary, subject to available appropriations.

(d) (1) A provider shall submit all charges for payment of reviews and CARE exams to the secretary of health and environment within 90 days after a review or exam has been performed.

(2) The secretary of health and environment shall pay all charges directly to the provider within 30 days after being submitted.

(3) The payment amount shall be for the exam at the rate not to exceed \$750 for providing such exam, excluding costs for treatment that may be required due to the diagnosis, or any facility fees, supplies or laboratory or radiology testing.

(4) If a provider is found to have submitted fraudulent charges, such provider shall be banned from the CARE network and the secretary of health and environment shall report such incident to the provider's licensing board. Such licensing board shall investigate such report to determine whether unprofessional conduct has occurred.

(5) On or before January 31, 2024, the secretary of health and environment shall prepare and present a report to the house of representatives standing committee on child welfare and foster care and the senate standing committee on public health and welfare, or their successor committees, of the activities and operations under this section. Such report shall include:

(A) The number of providers who have submitted charges;

(B) the number of reviews and CARE exams performed;

(C) average charge submitted per review and CARE exam;

(D) total amount paid out to providers;

(E) the average number of days between when:

(i) A review or CARE exam is performed and charges are submitted; and

(ii) charges are submitted and paid to a provider; and

(F) any findings of fraudulent charges.

(e) There is hereby established in the state treasury the child abuse review and evaluation fund, and such fund shall be administered by the

secretary of health and environment. All expenditures from the child abuse review and evaluation fund shall be for payments of reviews, CARE exams, training of CARE providers and the implementation and administration of subsection (b), as needed. All expenditures from the child abuse review and evaluation fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee. All moneys received for reviews, CARE exams and CARE provider training 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 child abuse review and evaluation fund.

(f) This section shall be a part of and supplemental to the revised Kansas code for care of children.

New Sec. 2. (a) This section shall be known and may be cited as the Representative Gail Finney memorial foster care bill of rights.

(b) Consistent with the policy of the state expressed in K.S.A. 38-2201 et seq., and amendments thereto, in order to ensure proper care and protection of a child in need of care in the child welfare system, unless otherwise ordered by the court, such child shall have the right to:

(1) Live in a safe, comfortable placement, in accordance with K.S.A. 38-2255, and amendments thereto:

(A) Where such child lives in the least restrictive environment;

(B) where such child shall be treated with respect, have a place to store belongings and receive healthy food, adequate clothing and appropriate personal hygiene products;

(C) with siblings when possible; and

(D) upon proper investigation and consideration in accordance with K.S.A. 38-2242, and amendments thereto, with a relative, kinship care placement or someone from such child's community with similar religious beliefs or ethnic heritage;

(2) have visits with family;

(3) have as few placements as possible;

(4) have and maintain belongings by:

(A) Making a list of belongings to have when placed out of home;

(B) providing such list of belongings to such child's case manager;

(C) bringing such belongings when placed out of home; and

(D) if going on a visit or to a new placement, having belongings packed and transportable for the visit or move;

(5) have access to all appropriate school supplies, services, tutoring, extra-curricular, cultural and personal enrichment activities;

(6) attend school daily in accordance with K.S.A. 38-2218, and amendments thereto;

(7) receive a high school diploma if such child has earned the standard credits in accordance with K.S.A. 38-2285, and amendments thereto;

(8) be notified of all hearings held pursuant to the revised Kansas code for care of children, when age or developmentally appropriate;

(9) attend, in person or virtually, all court hearings held pursuant to the revised Kansas code for care of children, when age or developmentally appropriate;

(10) address the court regarding any proposed placement or placement change in accordance with K.S.A. 38-2262, and amendments thereto, when age or developmentally appropriate;

(11) have a guardian ad litem represent the best interests of the child, in accordance with K.S.A. 38-2205, and amendments thereto, and contact such child regularly;

(12) request an attorney who will represent the position of the child, if different than the determinations of the guardian ad litem, in accordance with K.S.A. 38-2205, and amendments thereto;

(13) have privacy to send and receive unopened mail and make and receive phone calls;

(14) have regular and private contact with and access to case managers, attorneys and advocates;

(15) access accurate and necessary information for such child's well-being from case managers, guardians and any person who is by law liable to maintain, care for or support the child;

(16) have as few changes in case managers as possible;

(17) contact a case manager's supervisor if there is a conflict that cannot be resolved between such child and such child's case manager;

(18) report a violation of this section without fear of punishment, interference, coercion or retaliation; and

(19) when transitioning out of the child welfare system:

(A) Be an active participant in developing a transition plan, as defined in K.S.A. 38-2202, and amendments thereto;

(B) have services and benefits explained;

(C) have a checking or savings account;

(D) learn to manage money, when age or developmentally appropriate;

(E) learn job skills that are age or developmentally appropriate; and

(F) be involved in life skills training and activities.

(c) Consistent with the policy of the state expressed in K.S.A. 38-2201 et seq., and amendments thereto, in order to ensure active participation of foster parents and kinship caregivers as an integral, indispensable and vital role in the state's efforts to care for children in the custody of the secretary, unless otherwise ordered by the court, such foster parents and kinship caregivers shall have the right to:

(1) Be treated by the Kansas department for children and families and other child welfare system stakeholders with dignity, respect and trust as a primary provider of care and support and a member of the professional team caring for a child in the custody of the secretary;

(2) not be discriminated in accordance with the Kansas act against discrimination, K.S.A. 44-1001, et seq., and amendments thereto, and federal law;

(3) continue with such foster parents' and kinship caregivers' own family values and beliefs with consideration given to the special needs of children who have experienced trauma and separation from their biological families, if the values and beliefs of the child and the biological family are respected and not infringed upon;

(4) make decisions concerning the child consistent with the policies, procedures and other directions of the Kansas department for children and families and within the limits of state and federal law;

(5) receive standardized preservice training by the Kansas department for children and families or the department's designee and at appropriate intervals to meet mutually assessed needs of the child, such foster parents and kinship caregivers;

(6) receive timely financial reimbursement and be notified of any costs or expenses for which such foster parents and kinship caregivers may be eligible for reimbursement in accordance with K.S.A. 38-2216, and amendments thereto;

(7) receive information regarding services and contact the Kansas department for children and families or the department's designee during regular business hours and, in the event of an emergency, by telephone after business hours;

(8) receive any information on issues concerning the child and known to the Kansas department for children and families or the department's designee that is relevant to the care of the child or that may jeopardize the health and safety of the foster family, the kinship care placement or the child or alter the manner in which care and services should be administered prior to the placement of such child;

(9) discuss known information regarding the child prior to placement and be provided additional information from the Kansas department for children and families or the department's designee as such information becomes available under state and federal law;

(10) refuse placement of a child in such foster parents' and kinship caregivers' home or request the removal of a child from such foster parents' and kinship caregivers' home after providing reasonable notice;

(11) receive any available information through the Kansas department for children and families regarding the number of times a child has been placed and the reasons for such placements, and receive the names

and phone numbers of any previous placements if such placements have authorized such a release by law;

(12) receive information from the Kansas department for children and families that is relevant to the care of a child when the child is placed with such foster parents and kinship caregivers;

(13) provide input and participate in the case planning process for the child and participate in and be informed about the planning of visitation between the child and the child's biological family, recognizing that visitation with the child's biological family is important, in accordance with K.S.A. 38-2255, and amendments thereto;

(14) communicate with the child's child welfare case management provider and share and obtain relevant and appropriate information regarding such child's placement;

(15) communicate with members of the child's professional team, including, but not limited to, such child's child welfare management provider, therapists, physicians and teachers as allowed by rules and regulations and state and federal law, for the purpose of participating in such child's case plan;

(16) be notified in advance of any court hearing or review where the case plan or permanency of the child is an issue, including periodic reviews held by the court, in accordance with the revised Kansas code for care of children;

(17) be considered as a placement option, if a child who was formerly placed with such parents or kinship caregivers is in the custody of the secretary again;

(18) continue contact and communication with a child subsequent to the child's placement from such foster parents' and kinship caregivers' home, subject to the approval of the child and the child's biological parents, if such biological parents' rights have not been terminated;

(19) direct questions to the Kansas department for children and families regarding information, concerns, policy violations and a corrective action plan relating to licensure as a family foster home;

(20) have the rights described in this section be given full consideration when the Kansas department for children and families develops and approves policies regarding placement and permanency;

(21) submit a report to the court pursuant to K.S.A. 38-2261, and amendments thereto; and

(22) request a court hearing regarding a change of placement notice pursuant to K.S.A. 38-2258, and amendments thereto, if a child has been placed with the same foster parents for six months or longer.

(d) (1) The secretary shall provide written and oral notification to foster youth, foster parents and kinship caregivers of the rights created under this section and information for filing complaints.

(2) The secretary shall make a list of the rights created under this section digitally available on the secretary's website.

(3) Each child welfare management provider shall make available physical and digital copies of a list of the rights created under this section.

(e) This section shall not be construed to create a private right of action independent of the revised Kansas code for care of children, but may be enforced through equitable relief as a part of the corresponding case under the revised Kansas code for care of children.

(f) This section shall be a part of and supplemental to the revised Kansas code for care of children.

Sec. 3. K.S.A. 2022 Supp. 21-5605 is hereby amended to read as follows: 21-5605. (a) Abandonment of a child is leaving a child under the age of 16 years, in a place where such child may suffer because of neglect by the parent, guardian or other person to whom the care and custody of such child shall have been entrusted, when done with intent to abandon such child.

(b) Aggravated abandonment of a child is abandonment of a child, as defined in subsection (a), which results in great bodily harm.

(c) (1) Abandonment of a child is a severity level 8, person felony.

(2) Aggravated abandonment of a child is a severity level 5, person felony.

(d) No parent or other person having lawful custody of an infant shall be prosecuted for a violation of subsection (a), if such parent or person surrenders custody of an infant in the manner provided by K.S.A. 38-2282, and amendments thereto, and if such infant has not suffered *great* bodily harm.

(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any form of battery or homicide.

Sec. 4. K.S.A. 38-2203 is hereby amended to read as follows: 38-2203. (a) Proceedings concerning any child who may be a child in need of care shall be governed by this code, except in those instances when the court knows or has reason to know that an Indian child is involved in the proceeding, in which case, the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq., applies. The Indian child welfare act may apply to: The filing to initiate a child in need of care proceeding, K.S.A. 38-2234, and amendments thereto; ex parte custody orders, K.S.A. 38-2242, and amendments thereto; temporary custody hearing, K.S.A. 38-2243, and amendments thereto; adjudication, K.S.A. 38-2247, and amendments thereto; burden of proof, K.S.A. 38-2250, and amendments thereto; disposition, K.S.A. 38-2255, and amendments thereto; permanency hearings, K.S.A. 38-2264, and amendments thereto; termination of parental rights, K.S.A. 38-2267, 38-2268 and 38-2269, and amendments thereto; establishment of permanent custodianship, K.S.A. 38-2268 and 38-2272, and amendments thereto; *the newborn infant protection act*, K.S.A. 38-2282, and amend-

ments thereto; the Representative Gail Finney memorial foster care bill of rights, section 2, and amendments thereto; the placement of a child in any foster, pre-adoptive and adoptive home and the placement of a child in a guardianship arrangement under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(b) Subject to the uniform child custody jurisdiction and enforcement act, K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, the district court shall have original jurisdiction of proceedings pursuant to this code.

(c) The court acquires jurisdiction over a child by the filing of a petition pursuant to this code or upon issuance of an ex parte order pursuant to K.S.A. 38-2242, and amendments thereto. When the court acquires jurisdiction over a child in need of care, jurisdiction may continue until the child has: (1) Become 18 years of age, or until June 1 of the school year during which the child became 18 years of age if the child is still attending high school unless there is no court approved transition plan, in which event jurisdiction may continue until a transition plan is approved by the court or until the child reaches the age of 21; (2) been adopted; or (3) been discharged by the court. Any child 18 years of age or over may request, in writing to the court, that the jurisdiction of the court cease. The court shall give notice of the request to all parties and interested parties and 30 days after receipt of the request, jurisdiction will cease.

(d) When it is no longer appropriate for the court to exercise jurisdiction over a child, the court, upon its own motion or the motion of a party or interested party at a hearing or upon agreement of all parties or interested parties, shall enter an order discharging the child. Except upon request of the child pursuant to subsection (c), the court shall not enter an order discharging a child until June 1 of the school year during which the child becomes 18 years of age if the child is in an out-of-home placement, is still attending high school and has not completed the child's high school education.

(e) When a petition is filed under this code, a person who is alleged to be under 18 years of age shall be presumed to be under that age for the purposes of this code, unless the contrary is proved.

(f) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a civil custody case, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, or a comparable case in another jurisdiction, except as provided by K.S.A. 2022 Supp. 23-37,101 through 23-37,405, and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 5. K.S.A. 38-2202 is hereby amended to read as follows: 38-2202. As used in the revised Kansas code for care of children, unless the context otherwise indicates:

(a) “Abandon” or “abandonment” means to forsake, desert or, without making appropriate provision for substitute care, cease providing care for the child.

(b) “Adult correction facility” means any public or private facility, secure or nonsecure, that is used for the lawful custody of accused or convicted adult criminal offenders.

(c) “Aggravated circumstances” means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(d) “Child in need of care” means a person less than 18 years of age at the time of filing of the petition or issuance of an ex parte protective custody order pursuant to K.S.A. 38-2242, and amendments thereto, who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child’s parents or other custodian;

(2) is without the care or control necessary for the child’s physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-3421 or 72-3120, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, ~~K.S.A. 74-8810(j), K.S.A. 79-3321(m) or (n)~~, or K.S.A. 2022 Supp. 21-6301(a)(14), and amendments thereto, or, except as provided in paragraph (12), does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution, but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act that if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 2022 Supp. 21-5102, and amendments thereto;

(9) is willfully and voluntarily absent from the child’s home without the consent of the child’s parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person’s designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused;

(12) while less than 10 years of age commits the offense defined in K.S.A. 2022 Supp. 21-6301(a)(14), and amendments thereto;

(13) has had a permanent custodian appointed and the permanent custodian is no longer able or willing to serve; or

(14) has been subjected to an act that would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2022 Supp. 21-6419, and amendments thereto.

(e) *“Child abuse medical resource center” means a medical institution affiliated with an accredited children’s hospital or a recognized institution of higher education that has an accredited medical school program with board-certified child abuse pediatricians who provide training, support, mentoring and peer review to CARE providers on CARE exams.*

(f) *“Child abuse review and evaluation exam” or “CARE exam” means a forensic medical evaluation of a child alleged to be a victim of abuse or neglect conducted by a CARE provider.*

(g) *“Child abuse review and evaluation network” or “CARE network” means a network of CARE providers, child abuse medical resource centers and any medical provider associated with a child advocacy center that has the ability to conduct a CARE exam that collaborate to improve services provided to a child alleged to be a victim of abuse or neglect.*

(h) *“Child abuse review and evaluation provider” or “CARE provider” means a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant who performs CARE exams of and provides medical diagnosis and treatment to a child alleged to be a victim of abuse or neglect and who receives:*

(1) *Kansas-based initial intensive training regarding child maltreatment from the CARE network;*

(2) *continuous trainings on child maltreatment from the CARE network; and*

(3) *peer review and new provider mentoring regarding medical evaluations from a child abuse medical resource center.*

(i) *“Child abuse review and evaluation referral” or “CARE referral” means a brief written review of allegations of physical abuse, emotional abuse, medical neglect or physical neglect submitted by the secretary or law enforcement agency to a child abuse medical resource center for a recommendation of such child’s need for medical care that may include a CARE exam.*

(j) *“Citizen review board” is a group of community volunteers appointed by the court and whose duties are prescribed by K.S.A. 38-2207 and 38-2208, and amendments thereto.*

(k) *“Civil custody case” includes any case filed under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas*

family law code, article 11 of chapter 38 of the Kansas Statutes Annotated, and amendments thereto, determination of parentage, article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, or article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators.

~~(g)~~(l) “Court-appointed special advocate” means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-2206, and amendments thereto, in a proceeding pursuant to this code.

~~(h)~~(m) “Custody” whether temporary, protective or legal, means the status created by court order or statute that vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

~~(i)~~(n) “Extended out of home placement” means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the child’s home.

~~(j)~~(o) “Educational institution” means all schools at the elementary and secondary levels.

~~(k)~~(p) “Educator” means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in K.S.A. 72-6143(a), and amendments thereto.

~~(l)~~(q) “Harm” means physical or psychological injury or damage.

~~(m)~~(r) “Interested party” means the grandparent of the child, a person with whom the child has been living for a significant period of time when the child in need of care petition is filed, and any person made an interested party by the court pursuant to K.S.A. 38-2241, and amendments thereto, or Indian tribe seeking to intervene that is not a party.

~~(n)~~(s) “Jail” means:

- (1) An adult jail or lockup; or
- (2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is: (A) Total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(~~o~~)(t) “Juvenile detention facility” means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders that must not be a jail.

(~~p~~)(u) “Juvenile intake and assessment worker” means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(~~q~~)(v) “Kinship care placement” means the placement of a child in the home of an adult with whom the child or the child’s parent already has close emotional ties.

(w) “*Kinship caregiver*” means an adult who the secretary has selected for placement for a child in need of care with whom the child or the child’s parent already has close emotional ties.

(~~r~~)(x) “Law enforcement officer” means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(~~s~~)(y) “Multidisciplinary team” means a group of persons, appointed by the court under K.S.A. 38-2228, and amendments thereto, that has knowledge of the circumstances of a child in need of care.

(~~t~~)(z) “Neglect” means acts or omissions by a parent, guardian or person responsible for the care of a child resulting in harm to a child, or presenting a likelihood of harm, and the acts or omissions are not due solely to the lack of financial means of the child’s parents or other custodian. Neglect may include, but shall not be limited to:

(1) Failure to provide the child with food, clothing or shelter necessary to sustain the life or health of the child;

(2) failure to provide adequate supervision of a child or to remove a child from a situation that requires judgment or actions beyond the child’s level of maturity, physical condition or mental abilities and that results in bodily injury or a likelihood of harm to the child; or

(3) failure to use resources available to treat a diagnosed medical condition if such treatment will make a child substantially more comfortable, reduce pain and suffering, or correct or substantially diminish a crippling condition from worsening. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall, not for that reason, be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to K.S.A. 38-2217(a)(2), and amendments thereto.

(~~u~~)(aa) “Parent” when used in relation to a child or children, includes a guardian and every person who is by law liable to maintain, care for or support the child.

~~(v)~~(bb) “Party” means the state, the petitioner, the child, any parent of the child and an Indian child’s tribe intervening pursuant to the Indian child welfare act.

~~(w)~~(cc) “Permanency goal” means the outcome of the permanency planning process, which may be reintegration, adoption, appointment of a permanent custodian or another planned permanent living arrangement.

~~(x)~~(dd) “Permanent custodian” means a judicially approved permanent guardian of a child pursuant to K.S.A. 38-2272, and amendments thereto.

~~(y)~~(ee) “Physical, mental or emotional abuse” means the infliction of physical, mental or emotional harm or the causing of a deterioration of a child and may include, but shall not be limited to, maltreatment or exploiting a child to the extent that the child’s health or emotional well-being is endangered.

~~(z)~~(ff) “Placement” means the designation by the individual or agency having custody of where and with whom the child will live.

~~(aa)~~(gg) “Qualified residential treatment program” means a program designated by the secretary for children and families as a qualified residential treatment program pursuant to federal law.

~~(bb)~~(hh) “Reasonable and prudent parenting standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural and social activities.

~~(cc)~~(ii) “Relative” means a person related by blood, marriage or adoption.

~~(dd)~~(jj) “Runaway” means a child who is willfully and voluntarily absent from the child’s home without the consent of the child’s parent or other custodian.

~~(ee)~~(kk) “Secretary” means the secretary for children and families or the secretary’s designee.

~~(ff)~~(ll) “Secure facility” means a facility, other than a staff secure facility or juvenile detention facility, that is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or that relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

~~(gg)~~(mm) “Sexual abuse” means any contact or interaction with a child in which the child is being used for the sexual stimulation of the

perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or encouraging a child to:

- (1) Be photographed, filmed or depicted in pornographic material; or
- (2) be subjected to aggravated human trafficking, as defined in K.S.A. 2022 Supp. 21-5426(b), and amendments thereto, if committed in whole or in part for the purpose of the sexual gratification of the offender or another, or be subjected to an act that would constitute conduct proscribed by article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2022 Supp. 21-6419 or 21-6422, and amendments thereto.

~~(hh)~~(nn) “Shelter facility” means any public or private facility or home, other than a juvenile detention facility or staff secure facility, that may be used in accordance with this code for the purpose of providing either temporary placement for children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

~~(ii)~~(oo) “Staff secure facility” means a facility described in K.S.A. 65-535, and amendments thereto: (1) That does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein; (2) that may establish reasonable rules restricting entrance to and egress from the facility; and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision. No staff secure facility shall be in a city or county jail.

~~(jj)~~(pp) “Transition plan” means, when used in relation to a youth in the custody of the secretary, an individualized strategy for the provision of medical, mental health, education, employment and housing supports as needed for the adult and, if applicable, for any minor child of the adult, to live independently and specifically provides for the supports and any services for which an adult with a disability is eligible including, but not limited to, funding for home and community based services waivers.

~~(kk)~~(qq) “Youth residential facility” means any home, foster home or structure that provides 24-hour-a-day care for children and that is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 6. K.S.A. 38-2226 is hereby amended to read as follows: 38-2226. (a) *Investigation for child abuse or neglect.* The secretary and law enforcement officers shall have the duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect a child. Any person or agency which maintains records relating to the involved child which are relevant to any investigation conducted by the secretary or law enforcement agency under this code shall provide the secretary or law enforcement agency

with the necessary records to assist in investigations. In order to provide such records, the person or agency maintaining the records shall receive from the secretary or law enforcement: (1) A written request for information; and (2) a written notice that the investigation is being conducted by the secretary or law enforcement. If the secretary and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 38-2210, and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the Kansas department of corrections shall be investigated by the attorney general or secretary of corrections. Any suspected child abuse or neglect in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be investigated by the appropriate law enforcement agency.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the secretary shall assist each other in taking action which is necessary to protect a child regardless of which agency conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.* (1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview con-

ducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the child. To the extent that safety and practical considerations allow, law enforcement officers on such premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(2) The secretary or a law enforcement officer may request the presence of school personnel during an interview if the secretary or officer determines that the presence of such person might provide comfort to the child or facilitate the investigation.

(h) *Visual observation required.* As part of any investigation conducted pursuant to this section, the secretary, ~~or the secretary's designee,~~ or the law enforcement agency, or such agency's designee, that is conducting the investigation shall visually observe the child who is the alleged victim of abuse or neglect. In the case of a joint investigation conducted pursuant to subsection (b), the secretary and the investigating law enforcement agency, or the designees of the secretary and such agency, shall both visually observe the child who is the alleged victim of abuse or neglect. All investigation reports shall include the date, time and location of any visual observation of a child that is required by this subsection.

(i) *Child abuse review and evaluation referrals.* (1) *Upon investigation by law enforcement or assignment by the secretary of any investigation of physical abuse or physical neglect conducted pursuant to this section that concerns a child five years of age or younger, the secretary, the law enforcement agency or the agency's designee shall make a CARE referral for such child.*

(2) *In any other investigation of physical abuse, emotional abuse, medical neglect or physical neglect conducted pursuant to this section, the secretary, the law enforcement agency or the agency's designee may make a CARE referral for such child.*

Sec. 7. K.S.A. 38-2258 is hereby amended to read as follows: 38-2258. (a) Except as provided in K.S.A. 38-2255(d)(2) and 38-2259, and amendments thereto, if a child has been in the same foster home, *kinship care placement* or shelter facility for six months or longer, or has been placed by the secretary in the home of a parent or relative, the secretary shall give written notice of any plan to move the child to a different placement unless the move is to the selected preadoptive family for the purpose of facilitating adoption. The notice shall be given to: (1) The court having jurisdiction over the child; (2) the petitioner; (3) the attorney for the parents, if any; (4) each parent whose address is available; (5) the foster parent or custodian from whose home or shelter facility it is proposed to remove the child; (6) the child, if 12 or more years of age; (7) the child's guardian ad litem; (8) any other party or interested party; and (9) the child's court appointed special advocate.

(b) The notice shall state the placement to which the secretary plans to transfer the child and the reason for the proposed action. The notice shall be mailed by first class mail 30 days in advance of the planned transfer, except that the secretary shall not be required to wait 30 days to transfer the child if all persons enumerated in subsection (a)(2) through (8) consent in writing to the transfer.

(c) Within 14 days after receipt of the notice, any person enumerated in subsection (a)(2) through (8) receiving notice as provided above may request, either orally or in writing, that the court conduct a hearing to determine whether or not the change in placement is in the best interests of the child concerned. When the request has been received, the court shall schedule a hearing and immediately notify the secretary of the request and the time and date the matter will be heard. The court shall give notice of the hearing to persons enumerated in subsection (a)(2) through (9). If the court does not receive a request for hearing within the specified time, the change in placement may occur prior to the expiration of the 30 days. The secretary shall not change the placement of the child, except for the purpose of adoption, unless the change is approved by the court.

(d) When, after the notice set out above, a child in the custody of the secretary is removed from the home of a parent after having been placed in the home of a parent for a period of six months or longer, the secretary shall request a finding that:

(1) (A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(e) The secretary shall present to the court in writing the efforts to maintain the family unit and prevent the unnecessary removal of the child from the child's home. In making the findings, the court may rely on documentation submitted by the secretary or may set the date for a hearing on the matter. If the secretary requests such finding, the court, not more than 45 days from the date of the request, shall provide the secretary with a written copy of the findings by the court for the purpose of documenting these orders.

Sec. 8. K.S.A. 38-2261 is hereby amended to read as follows: 38-2261. The secretary shall notify the foster parent or ~~parents~~ *kinship caregivers* that the foster parent or ~~parents~~ *kinship caregivers* have a

right to submit a report. Copies of the report shall be available to the parties and interested parties. The report made by foster parents shall be on a form created and provided by the Kansas department for children and families.

Sec. 9. K.S.A. 38-2282 is hereby amended to read as follows: 38-2282. (a) This section shall be known and may be cited as the newborn infant protection act. The purpose of this section is to protect newborn children from injury and death caused by abandonment by a parent; and to provide safe and secure alternatives to such abandonment. *This section shall not abridge the rights or obligations created by the Indian child welfare act of 1978, 25 U.S.C. § 1901 et seq.*

(b) As used in this section:

(1) “Newborn safety device” means a container designed to safely accept delivery of an infant and that is:

(A) *Voluntarily installed in a facility described in subsection (c)(1)(A) that is staffed 24 hours per day by an employee of such facility or has a dual alarm system that will dispatch first responders when all employees of the facility are unavailable;*

(B) *located on a structural wall in an area that is conspicuous and visible to employees of the facility described in subsection (c)(1)(A);*

(C) *equipped with an automatic lock that would restrict access to the device from the outside of the facility described in subsection (c)(1)(A) when an infant is placed inside the device;*

(D) *equipped with a temperature control; and*

(E) *equipped with an alarm system described in subsection (c)(3) that is triggered by an infant being placed inside the device;*

(2) “non-relinquishing parent” means the biological parent of an infant who does not leave surrender the infant ~~with any person listed in subsection (c)~~ in accordance with this section; and

~~(2)(3)~~ (3) “relinquishing parent” means the biological parent or person having legal custody of an infant who ~~leaves surrenders~~ the infant ~~with any person listed in subsection (c)~~ in accordance with this section.

(c) (1) A person purporting to be an infant’s parent or other person having lawful custody of an infant who is *not more than 60 days old or younger* and who has not suffered *great* bodily harm *as determined by a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant* may surrender physical custody of the infant to ~~any~~ *either*:

(A) *An employee who is on duty at a police station, sheriff’s office, law enforcement center, fire station, city or county health department or medical care facility as defined by K.S.A. 65-425, and amendments thereto. Such employee shall, without a court order, take physical custody of an infant surrendered pursuant to this section; or*

(B) *a newborn safety device installed at a facility described in subparagraph (A). An employee of such facility shall, without a court order, take physical custody of an infant surrendered pursuant to this section.*

(2) A relinquishing parent voluntarily surrendering an infant under this subsection shall not be required to reveal personally identifiable information, but may be offered the opportunity to provide information concerning the infant's familial or medical history *or information described in subsection (k).*

(3) *A facility described in this subsection that installs a newborn safety device shall install a dual alarm system connected to the physical location of the device. Such dual alarm system shall be tested at least once per week and visually checked at least twice per day to ensure such alarm is in working order.*

(d) ~~Any~~An employee of a facility described in subsection ~~(e)~~ (c)(1)(A) to whom an infant is delivered pursuant to this section shall not reveal the name or other personally identifiable information of the person who delivered the infant unless there is a reasonable suspicion that the infant has ~~been abused or neglected~~ *suffered great bodily harm or such information is required pursuant to subsection (k),* and such facility and its employees shall be immune from administrative, civil or criminal liability for any action taken pursuant to this subsection. Such immunity shall not extend to any acts or omissions, including negligent or intentional acts or omissions, occurring after the acceptance of the infant.

(e) If an infant is delivered pursuant to this section to ~~any~~ a facility described in subsection ~~(e)~~ (c)(1)(A) that is not a medical care facility, the employee of such facility who takes physical custody of the infant shall arrange for the immediate transportation of the infant to the nearest medical care facility as defined by K.S.A. 65-425, and amendments thereto. The medical care facility, its employees, agents and medical staff shall perform treatment in accordance with the prevailing standard of care as necessary to protect the physical health and safety of the infant and shall be immune from administrative, civil and criminal liability for treatment performed consistent with such standard.

(f) As soon as possible after an employee of ~~any~~ a facility described in subsection ~~(e)~~ (c)(1)(A) takes physical custody of an infant without a court order pursuant to this section, such ~~person~~ employee shall notify a local law enforcement agency that the ~~person~~ employee has taken physical custody of an infant pursuant to this section. Upon receipt of such notice a law enforcement officer from such law enforcement agency shall take custody of the infant as an abandoned infant. The law enforcement agency shall *report the surrender of the infant to the secretary and* deliver the infant to a facility or person designated by the secretary pursuant to K.S.A. 38-2232, and amendments thereto.

(g) Any person, city or county or agency thereof or medical care facility taking physical custody of an infant surrendered pursuant to this section shall perform any act necessary to protect the physical health or safety of the infant, and shall be immune from liability for any injury to the infant that may result therefrom.

(h) (1) A relinquishing parent shall be immune from civil or criminal liability for action taken pursuant to this section only if:

(A) The relinquishing parent voluntarily delivered the infant safely to *either*:

(i) The physical custody of an employee at a facility described in subsection ~~(e)~~ (c)(1)(A); or

(ii) *a newborn safety device installed at a facility described in subsection (c)(1)(B); and*

(B) the infant was ~~no~~ not more than 60 days old when delivered by the relinquishing parent to the physical custody of an employee at a facility described in subsection ~~(e)~~; and

~~(C) the infant was not abused or neglected by the relinquishing parent prior to such delivery and has not suffered great bodily harm as determined by a person licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant.~~

(2) The relinquishing parent's voluntary delivery of an infant in accordance with this section shall constitute the parent's implied consent to the adoption of such infant and a voluntary relinquishment of such parent's parental rights.

(i) (1) In any termination of parental rights proceeding initiated after the relinquishment of an infant pursuant to this section, the state shall publish notice pursuant to chapter 60 of the Kansas Statutes Annotated, and amendments thereto, that an infant has been relinquished, including the sex of the infant and the date and location of such relinquishment. Within 30 days after publication of such notice, a non-relinquishing parent seeking to establish parental rights shall notify the court where the termination of parental rights proceeding is filed and state such parent's intentions regarding the infant. The court shall initiate proceedings to establish parentage if no person notifies the court within 30 days. *When such person is seeking to establish parental rights, the court shall require the person, at the person's expense, to submit to a genetic test to verify that the person is the biological parent of the child.* There shall be an examination of the putative father registry to determine whether attempts have previously been made to preserve parental rights to the infant. If such attempts have been made, the state shall make reasonable efforts to provide notice of the abandonment of the infant to such putative father.

(2) If a relinquishing parent of an infant relinquishes custody of the infant in accordance with this section, to preserve the parental rights of

the non-relinquishing parent, the non-relinquishing parent shall take the steps necessary to establish parentage within 30 days after the published notice or specific notice provided in paragraph (1).

(3) If a non-relinquishing parent fails to take the steps necessary to establish parentage within the 30-day period specified in paragraph (2), the non-relinquishing parent may have all of such parent's rights terminated with respect to the child.

(4) If a non-relinquishing parent inquires at a facility described in subsection ~~(e)~~ (c)(1)(A) regarding an infant whose custody was relinquished pursuant to this section, such facility shall refer the non-relinquishing parent to the Kansas department for children and families and the court exercising jurisdiction over the child.

(j) Upon request, all medical records of the infant shall be made available to the Kansas department for children and families and given to the person awarded custody of such infant. The medical facility providing such records shall be immune from liability for such *release of records release*.

(k) *An employee of a facility described in subsection (c)(1)(A) shall ask the person surrendering an infant whether such infant or either biological parent is a member of or eligible for membership in a federally recognized Indian tribe and the identity of any such tribe or tribes. Any facility maintaining a newborn safety device shall provide the means for the person surrendering an infant to indicate whether such infant or either biological parent is a member of or eligible for membership in a federally recognized tribe or tribes. An employee of a facility taking custody of an infant pursuant to section (c)(1) shall provide to the secretary all information received pursuant to this subsection. The secretary shall provide such information to the court with jurisdiction over the infant.*

(l) (1) *A facility described in subsection (c)(1)(A) that receives an infant surrendered under this section shall make available, if possible, information to the relinquishing parent, but such parent shall not be required to accept such information.*

(2) *Such information to be made available shall include:*

(A) *A notice stating that 60 days after the surrender of the infant to the facility, the secretary shall commence proceedings for termination of parental rights and placement of the infant for adoption;*

(B) *a list of providers that provide counseling services on grief, pregnancy and adoption or other placement or care regarding an infant;*

(C) *a copy of this statute, the rights of birth parents, a questionnaire that a birth parent may answer questions about the medical or background information of the child and any information required by subsection (k); and*

(D) *a brochure on postpartum health.*

(3) *The form and manner of the information under this subsection shall be prescribed by the secretary. The secretary shall maintain the questionnaire under paragraph (2)(C) on a public website.*

(m) *Except as otherwise provided by law, the following individuals shall not disclose any information concerning the relinquishment of the infant and individuals involved in the relinquishment:*

(1) *Persons licensed to practice medicine and surgery, advanced practice registered nurse or licensed physician assistant;*

(2) *employees of a facility described in subsection (c)(1)(A);*

(3) *operators of a newborn safety device; or*

(4) *persons employed or involved with any location where an infant may be surrendered under this section.*

Sec. 10. K.S.A. 38-2202, 38-2203, 38-2226, 38-2258, 38-2261 and 38-2282 and K.S.A. 2022 Supp. 21-5605 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 19, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 71

HOUSE BILL No. 2059

AN ACT concerning alcoholic beverages and food establishments; exempting charitable raffle prizes of alcoholic liquor and cereal malt beverages from the Kansas liquor control act, the club and drinking establishment act and the Kansas cereal malt beverage act; relating to spirits, wine and beer distributors; regulating samples; relating to the special order shipping of wine; requiring monthly remittance of gallonage taxes; allowing businesses to sell cereal malt beverage by the drink on Sundays without requiring that 30% of the gross receipts of such businesses be derived from the sale of food; permitting food establishments to allow dogs in outside areas on the premises and food establishments that are microbreweries to allow dogs in outside and inside areas on the premises notwithstanding certain provisions of the Kansas food code; amending the common consumption area law to permit rather than require roads be blocked and allowing designation of such areas by signage; amending K.S.A. 41-104, 41-306, 41-306a, 41-307, 41-350 and 41-2659 and K.S.A. 2022 Supp. 41-2704 and repealing the existing sections.

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

New Section 1. (a) Notwithstanding any other provisions of state law, a food establishment, as defined in K.S.A. 65-656, and amendments thereto, that is a microbrewery as defined in K.S.A. 41-102, and amendments thereto, and is licensed as provided in K.S.A. 41-308b, and amendments thereto, may allow live dogs in outside and inside areas on the premises if the conditions specified in subsection (c) are met.

(b) Notwithstanding any other provisions of state law, a food establishment, as defined in K.S.A. 65-656, and amendments thereto, that is not a microbrewery as defined in K.S.A. 41-102, and amendments thereto, may allow live dogs in outside areas on the premises, if the conditions as specified in subsection (c) are met.

(c) The following conditions shall be met by a food establishment for dogs to be permitted on such food establishment's premises as permitted by subsections (a) and (b):

(1) The food establishment shall prepare a written plan describing the processes and procedures in place to prevent food contamination from dogs on the premises. The plan shall be posted next to the food establishment license inside the premises of the food establishment. The employees of the food establishment shall be trained on the plan, and the plan shall be made available to the Kansas department of agriculture upon request;

(2) dogs shall be under handler control. Dogs shall be well behaved and respond to their handler's command. Dogs belonging to food establishment owners, management or employees shall not be required to be leashed. Dogs belonging to guests of the food establishment shall be leashed at all times;

(3) with respect to a food establishment that is a microbrewery, as provided by subsection (a), dogs in indoor areas shall not be permitted

in food or drink preparation areas, including, but not limited to, kitchens and behind bars;

(4) dogs shall not be permitted on dining surfaces, including tables, bars or counter tops;

(5) dogs shall not be fed or watered from any food establishment equipment, including, but not limited to, plates, bowls and utensils, except for single-service items that are disposed of immediately following such use;

(6) an area outside the food establishment shall be designated for dog urination and defecation;

(7) employees shall be required to wash their hands after contact of any kind with a dog prior to handling any food, drink, utensil or food or drink production, preparation or serving equipment or the preparation or use of surfaces that may come into contact with food or drink;

(8) guests shall be advised to wash their hands after any contact with a dog; and

(9) a process for immediately sanitizing equipment or surfaces used for the production, preparation, serving or consumption of food or drink if a dog has contact with such equipment or surfaces shall be developed and followed by the food establishment. This process shall include instructions for disposing of contaminated food or drink.

Sec. 2. On and after July 1, 2023, K.S.A. 41-104 is hereby amended to read as follows: 41-104. (a) No person shall manufacture, bottle, blend, sell, barter, transport, deliver, furnish or possess any alcoholic liquor for beverage purposes, except as specifically provided in this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, except that nothing contained in ~~this act~~ *such acts* shall prevent:

~~(a)~~(1) The possession and transportation of alcoholic liquor for the personal use of the possessor, the possessor's family and guests except that the provisions of K.S.A. 41-407, and amendments thereto, shall be applicable to all persons;

~~(b)~~(2) the making of wine, cider or beer by a person from fruits, vegetables or grains, or the product thereof, by simple fermentation and without distillation, if it is made solely for the use of the maker, the maker's family, guests and judges at a contest or competition of such beverages, provided, the maker receives no compensation for producing such beverages or for allowing the consumption thereof;

~~(c)~~(3) any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of the medical or dental profession;

~~(d)~~(4) any hospital or other institution caring for sick and diseased persons, from possessing and using alcoholic liquor for the treatment of bona fide patients of such hospital or institution;

~~(e)~~(5) any drugstore employing a licensed pharmacist from possessing and using alcoholic liquor in the compounding of prescriptions of duly licensed physicians;

~~(f)~~(6) the possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church;

~~(g)~~(7) the sale of wine to a consumer in this state by a person which holds a valid license authorizing the manufacture of wine in this or another state and the shipment of such wine directly to such consumer, subject to the following:

~~(1)~~(A) The consumer must be at least 21 years of age;

~~(2)~~(B) the consumer must purchase the wine while physically present on the premises of the wine manufacturer;

~~(3)~~(C) the wine must be for the consumer's personal consumption and not for resale; and

~~(4)~~(D) the consumer shall comply with the provisions of K.S.A. 41-407, and amendments thereto, by payment of all applicable taxes within such time after purchase of the wine as prescribed by rules and regulations adopted by the secretary;

~~(h)~~(8) the serving of complimentary alcoholic liquor or cereal malt beverages at fund raising activities of charitable organizations as defined by K.S.A. 17-1760, and amendments thereto, and as qualified pursuant to 26 U.S.C.A. U.S.C. § 501(c) and by committees formed pursuant to K.S.A. 25-4142 et seq., and amendments thereto. The serving of such alcoholic liquor at such fund raising activities shall not constitute a sale pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; ~~or~~

~~(i)~~(9) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance; *or*

(10) *the provision of alcoholic liquor or cereal malt beverage as a prize for a charitable raffle conducted in accordance with K.S.A. 75-5171 et seq., and amendments thereto, except that no such prize shall be provided to any person under 21 years of age.*

~~(j)~~(b) For purposes of subsection ~~(b)~~ (a)(2), the term "guest" means a natural person who is known to the host and receives a personal invitation

to an event conducted by the host. The term “guest” ~~shall~~ *does* not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.

Sec. 3. K.S.A. 41-306 is hereby amended to read as follows: 41-306. A spirits distributor’s license, shall allow:

(a) The wholesale purchase, importation and storage of spirits, but all such spirits so purchased or imported which are manufactured in the United States shall be purchased from the primary American source of supply or from another licensed spirits distributor, except that a licensed spirits distributor may purchase confiscated spirits at a sheriff’s sale.

(b) The sale of spirits to:

(1) Spirits distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of spirits only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The purchase of spirits in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such spirits shall be sealed, labeled and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of spirits by manufacturers and with all federal rules, regulations and laws.

(d) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor’s licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(e) The storage and delivery to a public venue licensed under the club and drinking establishment act of alcoholic liquor purchased by the public venue licensee from a retailer authorized by law to sell such alcoholic liquor to such public venue licensee.

(f) The withdrawal of spirits from such licensee’s inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person’s employees *or to persons licensed under the club and drinking establishment act and such persons’ employees*. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, ~~provided~~ *except that* no sample shall be served on that portion of the premises of

a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. *Only products that have not been purchased from the distributor licensee by the retailer or club and drinking establishment act licensee within the previous 12 months may be provided for sampling pursuant to this subsection.* No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of spirits shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection ~~other than at industry seminars or to the licensee's employees, the term "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto~~ *this subsection, "sample" means not more than three liters of distilled spirits.*

Sec. 4. K.S.A. 41-306a is hereby amended to read as follows: 41-306a. A wine distributor's license shall allow:

(a) The wholesale purchase, importation and storage of wine, but all wine so purchased or imported which is manufactured in the United States shall be purchased from the primary American source of supply or from another licensed wine distributor, except that a licensed wine distributor may purchase confiscated wine at a sheriff's sale.

(b) The sale of wine to:

(1) Wine distributors licensed in this state;

(2) retailers licensed in this state, except that such distributor shall sell a brand of wine only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and

(3) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of wine, but only in barrels, casks and other bulk containers, to:

(1) Licensed caterers; and

(2) public venues, clubs and drinking establishments licensed in this state, except that such distributor shall sell a brand of wine only to such public venues, clubs and drinking establishments the licensed premises of which are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto.

(d) The purchase of wine in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such wine shall be sealed, labeled and otherwise made to comply with all

laws and rules and regulations governing the preparation and bottling of wine by manufacturers and with all federal rules, regulations and laws.

(e) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(f) The withdrawal of wine from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. *Only products that have not been purchased from the distributor licensee by the retailer or club and drinking establishment licensee within the previous 12 months may be provided for sampling pursuant to this subsection.* No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of wine shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term of this subsection, "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto means not more than three liters of any brand of wine.

(g) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 5. K.S.A. 41-307 is hereby amended to read as follows: 41-307. A beer distributor's license shall allow:

- (a) The wholesale purchase, importation and storage of beer.
- (b) The sale of beer to:
 - (1) Licensed caterers;
 - (2) beer distributors licensed in this state;

(3) retailers, public venues, clubs and drinking establishments, licensed in this state, except that such distributor shall sell a brand of beer only to those retailers, public venues, clubs and drinking establishments of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto; and

(4) such persons located outside such territory or outside this state as permitted by law.

(c) The sale of cereal malt beverage to:

(1) Beer distributors licensed in this state;

(2) clubs and drinking establishments, licensed in this state, and retailers licensed under K.S.A. 41-2702, and amendments thereto, except that such distributor shall sell a brand of cereal malt beverage only to those such clubs, drinking establishments and retailers of which the licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410, and amendments thereto;

(3) retailers; and

(4) such persons located outside such territory or outside this state as permitted by law.

(d) The sale of beer containing not more than 6% alcohol by volume to cereal malt beverage retailers licensed pursuant to K.S.A. 41-2702, and amendments thereto.

(e) The purchase of cereal malt beverage in kegs or other bulk containers and the bottling or canning thereof in accordance with law.

(f) The storage and delivery to a retailer licensed under the Kansas liquor control act or a retailer licensed under K.S.A. 41-2702, and amendments thereto, on the distributor's licensed premises, of alcoholic liquor or cereal malt beverage of another licensed distributor authorized by law to sell such alcoholic liquor or cereal malt beverage to such retailer, in accordance with an agreement entered into with such other distributor and approved by the director.

(g) The storage and delivery, with proper invoicing in accordance with rules and regulations adopted by the secretary, on the premises of a public venue licensee, of beer sold to or available for purchase by the public venue during an event.

(h) The withdrawal of beer or cereal malt beverage from such licensee's inventory for use as samples in the course of the business of the distributor or at industry seminars. Samples may only be provided to persons licensed as a distributor or a retailer under the Kansas liquor control act, and such person's employees, or to persons licensed under

the club and drinking establishment act, and such person's employees. Samples may be served on the licensed premises of the licensee, or on the premises of a licensed retailer, provided no sample shall be served on that portion of the premises of a licensed retailer that is open to the public and where sales of alcoholic liquor at retail are made. Samples may be served on the premises of a licensee holding a license issued under the club and drinking establishment act, provided no sample shall be served on that portion of the premises that is open to the public and where sales of alcoholic liquor are made. *Only products that have not been purchased from the distributor licensee by the retailer or club and drinking establishment act licensee within the previous 12 months may be provided for sampling pursuant to this subsection.* No sample shall be provided to any minor. Nothing in this subsection shall be construed to permit the licensee to sell any alcoholic liquor for consumption on the premises. The withdrawal of beer or cereal malt beverage shall be subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable current posted bottle or case price. ~~For purposes of providing samples pursuant to this subsection other than at industry seminars or to the licensee's employees, the term this subsection, "sample" shall have the same meaning as that term is defined in K.S.A. 41-2601, and amendments thereto means not more than three gallons of any brand of beer or cereal malt beverage.~~

Sec. 6. On and after July 1, 2023, K.S.A. 41-350 is hereby amended to read as follows: 41-350. (a) For the purposes of this act, the term "winery" means any maker or producer of wine whether in this state or in any other state, who holds a valid federal basic wine manufacturing permit. The terms "director" and "secretary" ~~have the meaning ascribed to these terms~~ *mean the same as defined in K.S.A. 41-102, and amendments thereto.*

(b) Any winery may be authorized to make direct shipments of wine to consumers in this state upon obtaining a special order shipping license from the secretary pursuant to this act.

(1) A special order shipping license shall only be issued to a winery upon compliance with all applicable provisions of this act and the regulations promulgated pursuant to this act, and upon payment of a license fee in the amount of \$100. The license term for a special order shipping license shall commence on the date specified on the license and shall end two years after that date.

(2) A special order shipping license shall entitle the winery to ship wine upon order directly to consumers for personal or household use in this state. The purchaser shall pay the purchase price and all shipping costs directly to the permit holder. Enforcement taxes collected herein shall be paid solely on the purchase price and not on the shipping costs.

(c) No holder of a special order shipping license shall be permitted to ship in excess of 12 standard cases of wine of one brand or a combination of brands into this state to any one consumer or address per calendar year.

(d) (1) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order to state affirmatively that ~~he or she~~ *such person* is 21 years of age or older and shall verify the age of such person placing the order either by the physical examination of an approved government issued form of identification or by utilizing an internet based age and identification service approved by the director of alcoholic beverage control, or the director's designee.

(2) Every shipment of wine by the holder of a special order shipping license shall be clearly marked 'Alcoholic Beverages, Adult Signature Required' and the carrier delivering such shipment shall be responsible for obtaining the signature of an adult who is at least 21 years of age as a condition of delivery.

(e) A special order shipping license shall not authorize the shipment of any wine to any premises licensed to sell alcoholic beverages pursuant to this act or the club and drinking establishment act.

(f) The failure to comply strictly with the requirements of this act and rules and regulations promulgated pursuant to this act shall be grounds for the revocation of a special order shipping license or other disciplinary action by the director. After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes. Upon revocation of a special order shipping license for shipment of wine to a person not of legal age as required herein such winery shall not be issued any special order shipping license pursuant to this act for a period of one year from the date of revocation.

(g) The holder of a special order shipping license shall collect all gallonage taxes imposed by K.S.A. 41-501 et seq., and amendments thereto, shall on a ~~quarterly~~ *monthly* basis electronically remit such taxes in a manner prescribed by the secretary and shall accompany such remittance with any reports, documentation or other information as may be required by the secretary. In addition, an applicant for and a holder of a special order shipping license, as a condition of receiving and holding a valid license, shall:

(1) Collect and pay the applicable Kansas enforcement tax on each sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq., and amendments thereto;

(2) accompany each remittance with such sales tax reports, documentation and other information as may be required by the director of taxation; and

(3) if the holder of the license is an out-of-state shipper, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act.

(h) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

(i) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 7. On and after July 1, 2023, K.S.A. 41-2659 is hereby amended to read as follows: 41-2659. (a) (1) A city or a county may establish one or more common consumption areas within the limits of the city or within the unincorporated portion of the county, as applicable, by ordinance or resolution, respectively, and authorize the possession and consumption of alcoholic liquor or cereal malt beverage within the common consumption area. The ordinance or resolution shall designate the boundaries of any common consumption area and prescribe the times during which alcoholic liquor or cereal malt beverage may be consumed therein. The ordinance or resolution ~~shall~~ *may* require that any public street or roadway that lies within a common consumption area ~~shall~~ be blocked from motorized traffic during the hours in which alcoholic liquor or cereal malt beverage is consumed.

(2) The city or county shall immediately notify the director of the division of alcoholic beverage control of the establishment of a common consumption area and submit a copy of the ordinance or resolution along with such notice.

(b) A common consumption area permit shall allow the consumption of alcoholic liquor or cereal malt beverage in any area designated by such permit. The director may issue common consumption area permits to the city or county or any one person who shall be a resident of Kansas or an organization that has its principal place of business in Kansas and that has been approved by the respective city or county, in accordance with rules and regulations adopted by the secretary of revenue.

(c) Applications for common consumption area permits shall be submitted to the director, subject to the following:

(1) A copy of any ordinance or resolution promulgated in accordance with subsection (a) shall accompany any application for a common consumption area permit.

(2) Each application shall be accompanied by a non-refundable permit fee of \$100. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(3) A common consumption area permit shall be issued for a period of not to exceed one year. A common consumption area permit shall not be transferable or assignable.

(d) Any licensee immediately adjacent to, or located within a common consumption area may request that the licensee's licensed premises participate in the common consumption area for the duration of the common consumption area permit. Such a request shall be made upon forms prescribed by the director.

(e) (1) Any licensee who has requested and received permission to participate in the common consumption area may allow its legal patrons to remove alcoholic liquor or cereal malt beverage purchased from the licensee into the premises described by the common consumption area permit. All alcoholic liquor and cereal malt beverage removed from a licensed premises in such fashion shall be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the licensee.

(2) In addition to their licensed premises, one or more licensees that have requested and received permission to participate in a common consumption area may offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption from one non-contiguous service area within the common consumption area, as designated and approved by the common consumption area permit holder. The licensee shall prominently display a copy of its drinking establishment license and the approval of the common consumption area permit holder at its non-contiguous service area.

(f) (1) Each licensee within a common consumption area shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor or cereal malt beverage that occur on the licensee's premises.

(2) Each common consumption area permit holder shall be liable for violations that occur off the licensee's premises, but within the common consumption area identified in the permit. No permit holder shall permit any person to remove any open container of alcoholic liquor or cereal malt beverage from the boundaries of the common consumption area.

(g) (1) For the purposes of this section, "common consumption area" means a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas liquor control act or the club and drinking

establishment act where the possession and consumption of alcoholic liquor or cereal malt beverage is allowed pursuant to a common consumption area permit.

(2) The boundaries of any common consumption area must be clearly marked using a physical barrier or any apparent line of demarcation. *Every common consumption area shall have signs conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.*

(h) The secretary shall adopt rules and regulations to implement this section.

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

Sec. 8. K.S.A. 2022 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the Kansas cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, no cereal malt beverages or beer containing not more than 6% alcohol by volume may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business ~~which~~ *that* is licensed to sell cereal malt beverage for consumption on the premises, ~~which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which~~ *that* is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume:

(1) Between the hours of 12 midnight and 6 a.m.;

(2) in the original package not earlier than 9 a.m. and not later than 8 p.m. on Sunday;

(3) on Easter Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business ~~which~~ *that* is licensed to sell cereal malt beverage for consumption on the premises, ~~which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and~~ *which that* is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage or beer containing not more than 6% alcohol by volume to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage or beer containing not more than 6% alcohol by volume, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor, except beer containing not more than 6% alcohol by volume, in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act or the business is a farm winery licensed pursuant to K.S.A. 41-316, and amendments thereto, or a producer licensed pursuant to K.S.A. 41-355, and amendments thereto.

(h) Cereal malt beverages may be sold on premises that are licensed pursuant to both the Kansas cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 9. K.S.A. 41-306, 41-306a and 41-307 and K.S.A. 2022 Supp. 41-2704 are hereby repealed.

Sec. 10. On and after July 1, 2023, K.S.A. 41-104, 41-350 and 41-2659 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 24, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 72

HOUSE BILL No. 2298*

AN ACT concerning roads and highways; designating a portion of interstate 435 as the Officer Donald Burton Gamblin Jr memorial highway; designating a portion of United States highway 69 as the Robert Lessen memorial highway.

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

Section 1. The portion of interstate 435 in Johnson county from its junction with Shawnee mission parkway then north on interstate 435 to its junction with Holliday drive is hereby designated as the Officer Donald Burton Gamblin Jr memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate that the highway is the Officer Donald Burton Gamblin Jr memorial highway.

Sec. 2. The portion of United States highway 69 from its junction with K-47 highway in Crawford county then north on United States highway 69 to its junction with 650th avenue is hereby designated as the Robert Lessen memorial highway. Upon compliance with K.S.A. 68-10,114, and amendments thereto, the secretary of transportation shall place suitable signs along the highway right-of-way at proper intervals to indicate that the highway is the Robert Lessen memorial highway.

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

Approved April 24, 2023.

CHAPTER 73

HOUSE BILL No. 2346

AN ACT concerning motor vehicles; relating to license plates; providing for the back the blue license plate and the city of Topeka distinctive license plate; allowing distinctive license plates to be personalized license plates; amending K.S.A. 8-1,141 and repealing the existing section.

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

New Section 1. (a) On and after January 1, 2024, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one back the blue license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and payment to the county treasurer of the law enforcement support fee as provided for in subsection (b).

(b) Any applicant or renewal of registration for a back the blue license plate authorized by this section shall make payment of a law enforcement support fee to the county treasurer of \$30 for each license plate to be issued. Any law enforcement support fee payment received pursuant to this section shall be used to support the purposes of the Kansas chapter of concerns of police survivors (COPS), inc.

(c) Any applicant for a license plate authorized by this section may make application for such license plate not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for such license plate shall pay to the county treasurer the law enforcement training support fee as provided for in subsection (b). Application for registration of a passenger vehicle or truck and issuance of the license plate under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer back the blue license plates from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A. 8-143, and amendments thereto, and in the manner prescribed in K.S.A. 8-132(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant pays the law enforcement support fee to the county treasurer as provided for in subsection (b). If the annual law enforcement support fee payment is not made to the county treasurer at the time of

registration, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The Kansas chapter of concerns of police survivors (COPS), inc. shall provide to all county treasurers an electronic mail address where applicants can contact the Kansas chapter of concerns of police survivors (COPS), inc. for information concerning the application process or the status of such applicant's license plate application.

(h) The back the blue license plate shall have a background design, an emblem or colors that designate the license plate as a back the blue license plate.

(i) As a condition of receiving the back the blue license plate and any subsequent registration renewal of such license plate, the applicant shall provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, law enforcement support fee payment amount, plate number and vehicle type to the Kansas chapter of concerns of police survivors (COPS), inc. and the state treasurer.

(j) The collection and remittance of annual law enforcement support fee payments by the county treasurer shall be subject to the provisions of K.S.A. 8-1,141(h), and amendments thereto, except that payments from the back the blue royalty fund shall be made on a monthly basis to the Kansas chapter of concerns of police survivors (COPS), inc.

New Sec. 2. (a) On and after January 1, 2024, any owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of 20,000 pounds or less who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one city of Topeka license plate for each such passenger vehicle or truck. Such license plates shall be issued for the same time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and payment to the county treasurer of the flag image payment provided for in subsection (b).

(b) Any motor vehicle owner or lessee may apply annually to use the city of Topeka flag image on a license plate as provided for in this section. Such owner or lessee shall pay an amount of not less than \$25 but not more than \$100 for each such license plate to be issued. The flag image payment shall be paid to the county treasurer.

(c) Any applicant for a license plate authorized by this section may make application for such license plate, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles. Any applicant for such license plate shall pay to the county treasurer the flag image payment. Application for registration of a passenger vehicle or truck and the issuance of the license plate under

this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(d) No registration or license plate issued under this section shall be transferable to any other person.

(e) The director of vehicles may transfer a city of Topeka license plate from a leased vehicle to a purchased vehicle.

(f) Renewals of registration under this section shall be made annually, upon payment of the fee prescribed in K.S.A. 8-143, and amendments thereto, and in the manner prescribed in K.S.A. 8-132, and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer the flag image payment. If the annual flag image payment is not provided to the county treasurer, the applicant shall be required to comply with the provisions of K.S.A. 8-143, and amendments thereto, and return the license plate to the county treasurer of such person's residence.

(g) The city of Topeka flag image referred to in subsection (b) was adopted by the city of Topeka governing body on November 12, 2019. The flag was designed through a community input process managed by the greater Topeka partnership, inc. No individual or entity claims intellectual property rights to the city of Topeka flag image. Use of the city of Topeka flag image to be displayed on a license plate shall be designed with the approval of the director of vehicles.

(h) As a condition of receiving the city of Topeka license plate and any subsequent registration renewal of such license plate, the applicant shall consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, flag image payment amount, plate number and vehicle type to the city of Topeka and the state treasurer.

(i) The collection and remittance of annual flag image payments by the county treasurer shall be subject to the provisions of K.S.A. 8-1,141(h), and amendments thereto, except that payments from the city of Topeka flag image fund shall be made on a monthly basis to the greater Topeka partnership, inc. A change of the city's designee shall occur only by mutual agreement by the city of Topeka and the greater Topeka partnership, inc.

Sec. 3. K.S.A. 8-1,141 is hereby amended to read as follows: 8-1,141.

(a) (1) *Except as provided in paragraph (2), any new distinctive license plate authorized for issuance on and after July 1, 1994, shall be subject to the personalized license plate fee prescribed by K.S.A. 8-132(e)(d), and amendments thereto. This section shall not apply to any distinctive license plate authorized prior to July 1, 1994.*

(2) *On and after January 1, 2025, any distinctive license plate may be a personalized license plate subject to the provisions of K.S.A. 8-132, and amendments thereto. Any personalized distinctive license plate shall be*

subject to a fee that is double the amount prescribed by K.S.A. 8-132(d), and amendments thereto.

(b) The director of vehicles shall not issue any new distinctive license plate unless there is a guarantee of an initial issuance of at least 250 license plates.

(c) The provisions of this section shall not apply to distinctive license plates issued under the provisions of ~~K.S.A. 8-1,145, and amendments thereto, or K.S.A. 8-177d, 8-1,145, 8-1,163, 8-1,166, 8-1,185, 8-1,186, 8-1,187, 8-1,188, 8-1,194, 8-1,195, 8-1,196, 8-1,197, 8-1,198, 8-1,199, 8-1,204 or 8-1,205, and amendments thereto, except that such distinctive license plates may be personalized license plates pursuant to subsection (a)(2) if an applicant pays the personalized license plate fee prescribed by K.S.A. 8-132(d), and amendments thereto.~~

(d) The provisions of subsection (a) shall not apply to distinctive license plates issued under the provisions of ~~K.S.A. 8-1,146 or 8-1,148, and amendments thereto, or K.S.A. 8-1,146, 8-1,148, 8-1,153, 8-1,158 or 8-1,161, and amendments thereto, except that such distinctive license plates may be personalized license plates pursuant to subsection (a)(2) if an applicant pays the personalized license plate fee prescribed by K.S.A. 8-132(d), and amendments thereto.~~

(e) The provisions of subsection (f) shall not apply to distinctive license plates issued under the provisions of K.S.A. 8-1,160 ~~and~~ 8-1,183 *and section 1*, and amendments thereto, except that the division shall delay the manufacturing and issuance of such distinctive license plate until the division has received not fewer than 100 orders for such plate, including payment of the personalized license plate fee required under subsection (a). Upon certification by the director of vehicles to the director of accounts and reports that not less than 100 paid orders for such plate have been received, the director of accounts and reports shall transfer \$4,000 from the state highway fund to the distinctive license plate fund.

(f) (1) Any person or organization sponsoring any distinctive license plate authorized by the legislature shall submit to the division of vehicles a nonrefundable amount not to exceed \$5,000, to defray the division's cost for developing such distinctive license plate.

(2) All moneys received under this subsection shall be remitted by the secretary of revenue 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 distinctive license plate fund which is hereby created in the state treasury. All moneys credited to the distinctive license plate fund shall be used by the department of revenue only for the purpose associated with the development of distinctive license plates. All expenditures from the distinctive license plate application fee fund

shall be made in accordance with appropriation acts, upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the department of revenue.

(g) The director of vehicles shall discontinue the issuance of any distinctive license plate if:

(1) Fewer than 250 plates, including annual renewals, are issued for that distinctive license plate by the end of the second year of sales; and

(2) fewer than 125 license plates, including annual renewals, are issued for that distinctive license plate during any subsequent two-year period.

(h) An application for any distinctive license plate issued and the corresponding royalty fee may be collected either by the county treasurer or the entity benefiting from the issuance of the distinctive license plate. Annual royalty payments collected by the county treasurers 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 a segregated royalty fund which shall be administered by the state treasurer. All expenditures from the royalty fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the royalty fund shall be made to the entity benefiting from the issuance of the distinctive license plate on a monthly basis.

(i) Notwithstanding any other provision of law, for any distinctive license plate, the division shall produce such distinctive license plate for a motorcycle upon request to the division by the organization sponsoring the distinctive license plate.

(j) In addition to any residency requirements for all distinctive license plates, any person not a resident of Kansas, serving as a member of the armed forces stationed in this state shall be eligible to apply for any distinctive license plate as if the individual was a resident of this state. Such person shall be eligible to renew the distinctive license plate registration as long as the person is still stationed in this state at the time the registration is renewed.

Sec. 4. K.S.A. 8-1,141 is hereby repealed.

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

Approved April 24, 2023.

CHAPTER 74

HOUSE BILL No. 2027

AN ACT concerning the Kansas probate code; relating to probate procedures; persons arrested or charged with felonious killing of the decedent; creating a procedure to prevent distribution of assets until resolution of criminal proceedings; amending K.S.A. 59-513 and repealing the existing section.

WHEREAS, The amendments made to K.S.A. 59-513 by this act shall be known as Karen's law.

Now, therefore:

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

Section 1. K.S.A. 59-513 is hereby amended to read as follows: 59-513. (a) No person convicted of feloniously killing, or procuring the killing of, another person shall inherit or take by will, by intestate succession, as a surviving joint tenant, *as the designated beneficiary of real or personal property*, as a beneficiary under a trust or otherwise from such other person any portion of the estate or property in which the decedent had an interest.

(b) When any person kills or causes the killing of such person's spouse, and then takes such person's own life, the estates and property of both persons shall be disposed of as if their deaths were simultaneous pursuant to the provisions of K.S.A. 58-708 to 58-718, inclusive, and amendments thereto.

(c) (1) *The court may, upon its own motion or upon the written request of any party, prohibit the sale, distribution, spending or use of an asset or interest described in subsection (a), or a portion or proceeds thereof, by a person who has been arrested for or charged with the felonious killing, or procuring the killing of, the decedent.*

(2) *An order entered pursuant to this subsection may be granted ex parte upon a showing of criminal charges filed against a person interested in the estate.*

(3) (A) *An order entered pursuant to this subsection shall be in effect until modified or terminated by the court.*

(B) *Upon the written request of a person subject to an order under this subsection to modify or terminate such order, the court shall fix the time and place for the hearing thereof. Notice of the time and place of the hearing shall be given in such manner and to such persons as the court shall direct.*

(C) *The court shall terminate such order if the court finds that any of the following events relating to the arrest or charges that were the basis for the order have occurred:*

(i) *Dismissal of all such charges;*

(ii) *acquittal as to all such charges;*
(iii) *conviction or other disposition; or*
(iv) *expungement of the arrest records by court order pursuant to K.S.A. 2022 Supp. 22-2410, and amendments thereto.*

Sec. 2. K.S.A. 59-513 is hereby repealed.

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

Approved April 18, 2023.

CHAPTER 75

HOUSE BILL No. 2019
(Amended by Chapter 91)

AN ACT concerning information technology; requiring reporting of significant cybersecurity incidents; changing membership, terms and quorum requirements for the information technology executive council; relating to information technology projects and reporting requirements; information technology security training and cybersecurity reports; duties of the chief information security officer; requiring certain information to be provided to the joint committee on information technology; amending K.S.A. 46-2102, 74-5704, 75-7201, 75-7202, 75-7205, 75-7206, 75-7208, 75-7209, 75-7210, 75-7211, 75-7237, 75-7238, 75-7239, 75-7240 and 75-7242 and repealing the existing sections.

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

New Section 1. (a) Except as provided in subsection (b):

(1) Any public entity that has a significant cybersecurity incident shall notify the Kansas information security office within 12 hours after discovery of such incident.

(2) Any government contractor that has a significant cybersecurity incident that involves the confidentiality, integrity or availability of personal information or confidential information provided by the state of Kansas, networks or information systems operated by or on behalf of the state of Kansas shall notify the Kansas information security office:

(A) Within 72 hours after the government contractor reasonably believes that such significant cybersecurity incident occurred; or

(B) if a determination is made during the investigation that such information, networks or systems were directly impacted, within 12 hours after such determination is made.

(3) If a significant cybersecurity incident described in paragraph (1) or (2) involves election data, then the public entity or government contractor shall also notify the secretary of state of such incident within the time period required by paragraph (1) or (2).

(b) (1) Any entity that is connected to the Kansas criminal justice information system shall report any cybersecurity incident in accordance with rules and regulations adopted by the Kansas criminal justice information system committee pursuant to K.S.A. 74-5704, and amendments thereto.

(2) An entity that is connected to the Kansas criminal justice information system and is not connected to any other state of Kansas information system shall not be required to make the report required in subsection (a).

(3) The Kansas bureau of investigation shall notify the Kansas information security office of any significant cybersecurity incident report it receives in accordance with rules and regulations adopted pursuant to

K.S.A. 74-5704, and amendments thereto, not later than 12 hours after receipt of such report.

(c) (1) The information provided pursuant to this section shall only be shared with individuals who need to know such information for response and defensive activities to preserve the integrity of state information systems and networks or to provide assistance if requested.

(2) Such information shall be confidential and shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto. This paragraph shall expire on July 1, 2028, unless the legislature reviews and acts to continue such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

(3) The Kansas information security office shall only report the information provided pursuant to this section as aggregate data.

(d) Nothing in this section shall be construed to supersede notification requirements in currently existing contracts between the state of Kansas and entities.

(e) Prior to October 1, 2023, the Kansas information security office shall post instructions on its website for submitting the significant cybersecurity reports required by this section. Such instructions shall include, but not be limited to, the types of incidents that are required to be reported and any information that is required to be included in the report made through the established cybersecurity incident reporting system.

(f) For the purposes of this section:

(1) “Cybersecurity incident” means an event or combination that threatens, without lawful authority, the confidentiality, integrity or availability of information or information systems and that requires an entity to initiate a response or recovery activity;

(2) “entity” means a public entity or government contractor;

(3) “government contractor” means an individual or private entity that performs work for or on behalf of the state of Kansas on a contract basis that has access to or is hosting state networks, systems, application or information;

(4) “information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination or disposition of information;

(5) “personal information” means the same as defined in K.S.A. 2022 Supp. 50-7a01, and amendments thereto;

(6) “private entity” means an individual, corporation, company, partnership, firm, association or other entity that is not a public entity;

(7) “public entity” means any public agency of the state or any political subdivision thereof;

(8) “security breach” means the same as defined in K.S.A. 2022 Supp. 50-7a01, and amendments thereto;

(9) “significant cybersecurity incident” means a cybersecurity incident that results in or is likely to result in financial loss or demonstrable harm to public confidence or public health and safety in the state of Kansas; and

(10) “unauthorized disclosure” means the accidental exposure of personal information to a person or entity that is not authorized or does not have a valid need to view the information.

Sec. 2. K.S.A. 46-2102 is hereby amended to read as follows: 46-2102. In addition to other powers and duties authorized or prescribed by law or by the legislative coordinating council, the joint committee on information technology shall:

(a) Study the use by state agencies and institutions of computers, telecommunications and other information technologies;

(b) review new governmental computer hardware and software acquisition, information storage, transmission, processing and telecommunications technologies proposed by state agencies and institutions, and the implementation plans therefor, including all information technology project budget estimates and three-year strategic information technology plans that are submitted to the joint committee pursuant to K.S.A. 75-7210, and amendments thereto;

(c) *advise and consult on all state agency information technology projects, as defined in K.S.A. 75-7201, and amendments thereto, that pose a significant business risk as determined by the information technology executive council’s policies and in accordance with K.S.A. 75-7209, and amendments thereto;*

(d) make recommendations on all such implementation plans, budget estimates, *requests for proposals for information technology projects* and three-year plans to the ways and means committee of the senate and the committee on appropriations of the house of representatives;

~~(d)~~(e) study the progress and results of all newly implemented governmental computer hardware and software, information storage, transmission, processing and telecommunications technologies of state agencies and institutions including all information technology projects for state agencies which have been authorized or for which appropriations have been approved by the legislature; and

~~(e)~~(f) make an annual report to the legislative coordinating council as provided in K.S.A. 46-1207, and amendments thereto, and such special reports to committees of the house of representatives and senate as are deemed appropriate by the joint committee.

Sec. 3. K.S.A. 74-5704 is hereby amended to read as follows: 74-5704. The committee shall:

(a) Adopt and enforce ~~such~~ rules, regulations and policies ~~as that~~ are necessary for the establishment, maintenance, upgrading and operation of the statewide criminal justice information system; *and*

(b) *adopt rules and regulations that require entities connected to the Kansas criminal justice information system to report any cybersecurity incident to the Kansas bureau of investigation not later than 12 hours after the discovery of such cybersecurity incident.*

Sec. 4. K.S.A. 75-7201 is hereby amended to read as follows: 75-7201. As used in K.S.A. 75-7201 through 75-7212, and amendments thereto:

(a) *“Business risk” means the overall level of risk determined by a business risk assessment that includes, but is not limited to, cost, information security and other elements as determined by the information technology executive council’s policies.*

(b) *“Cumulative cost” means the total expenditures, from all sources, for any information technology project by one or more state agencies to meet project objectives from project start to project completion or the date and time the project is terminated if it is not completed.*

~~(b)~~(c) *“Executive agency” means any state agency in the executive branch of government.*

~~(e)~~(d) *“Information technology project” means a project for a major computer, telecommunications or other information technology improvement with an estimated cumulative cost of \$250,000 or more and includes any such project that has proposed expenditures for: (1) New or replacement equipment or software; (2) upgrade improvements to existing equipment and any computer systems, programs or software upgrades therefor; or (3) data or consulting or other professional services for such a project an information technology effort by a state agency of defined and limited duration that implements, effects a change in or presents a risk to processes, services, security, systems, records, data, human resources or architecture.*

~~(d)~~(e) *“Information technology project change or overrun” means any of the following any change in:*

(1) *Any change in Planned expenditures for an information technology project that would result in the total authorized cost of the project being increased above the currently authorized cost of such project by more than either \$1,000,000 or 10% of such currently authorized cost of such project, whichever is lower or an established threshold within the information technology executive council’s policies;*

(2) *any change in the scope or project timeline of an information technology project, as such scope or timeline was presented to and reviewed by the joint committee or the chief information technology officer to whom the project was submitted pursuant to K.S.A. 75-7209, and amendments thereto, that is a change of more than 10% or a change that is significant as determined by the information technology executive council’s policies; or*

(3) *any change in the proposed use of any new or replacement information technology equipment or in the use of any existing information technology equipment that has been significantly upgraded.*

~~(e)~~(f) “Joint committee” means the joint committee on information technology.

~~(f)~~(g) “Judicial agency” means any state agency in the judicial branch of government.

~~(g)~~(h) “Legislative agency” means any state agency in the legislative branch of government.

~~(h)~~(i) “Project” means a planned series of events or activities that is intended to accomplish a specified outcome in a specified time period, under consistent management direction within a state agency or shared among two or more state agencies, and that has an identifiable budget for anticipated expenses.

~~(i)~~(j) “Project completion” means the date and time when the head of a state agency having primary responsibility for an information technology project certifies that the improvement being produced or altered under the project is ready for operational use.

~~(j)~~(k) “Project start” means the date and time when a state agency begins a formal study of a business process or technology concept to assess the needs of the state agency, determines project feasibility or prepares an information technology project budget estimate under K.S.A. 75-7209, and amendments thereto.

~~(k)~~(l) “State agency” means any state office or officer, department, board, commission, institution or bureau, or any agency, division or unit thereof.

Sec. 5. K.S.A. 75-7202 is hereby amended to read as follows: 75-7202.
(a) There is hereby established the information technology executive council which shall be attached to the office of information technology services for purposes of administrative functions.

(b) (1) The council shall be composed of 17 voting members as follows:

- (A) Two cabinet agency heads or such persons’ designees;
- (B) two noncabinet agency heads or such persons’ designees;
- (C) the executive chief information technology officer;
- (D) the legislative chief information technology officer;
- (E) the judicial chief information technology officer;
- (F) the chief executive officer of the state board of regents or such person’s designee;
- (G) one representative of cities;
- (H) one representative of counties; the network manager of the information network of Kansas (INK);
- (I) one representative with background and knowledge in technology and cybersecurity from the private sector, ~~however,~~ *except that* such representative or such representative’s employer shall not be an information technology or cybersecurity vendor that does business with the state of Kansas;

(J) one representative appointed by the Kansas criminal justice information system committee;

(K) one member of the senate ~~ways and means committee~~ appointed by the president of the senate or such member's designee;

(L) one member of the senate ~~ways and means committee~~ appointed by the minority leader of the senate or such member's designee;

(M) one member of the house ~~government, technology and security committee or its successor committee of representatives~~ appointed by the speaker of the house of representatives or such member's designee; and

(N) one member of the house ~~government, technology and security committee or its successor committee of representatives~~ appointed by the minority leader of the house of representatives or such member's designee.

(2) The chief information technology architect shall be a nonvoting member of the council.

(3) The cabinet agency heads, the noncabinet agency heads, the representative of cities, the representative of counties and the representative from the private sector shall be appointed by the governor for a term not to exceed 18 months. Upon expiration of an appointed member's term, the member shall continue to hold office until the appointment of a successor. *Legislative members shall remain members of the legislature in order to retain membership on the council and shall serve until replaced pursuant to this section. Vacancies of members during a term shall be filled in the same manner as the original appointment only for the unexpired part of the term. The appointing authority for a member may remove the member, reappoint the member or substitute another appointee for the member at any time.* Nonappointed members shall serve ex officio.

(c) The chairperson of the council shall be drawn from the chief information technology officers, with each chief information technology officer serving a one-year term. The term of chairperson shall rotate among the chief information technology officers on an annual basis.

(d) The council shall hold quarterly meetings and hearings in the city of Topeka or at such other places as the council designates, on call of the executive chief information technology officer or on request of four or more members. *A quorum of the council shall be nine. All actions of the council shall be taken by a majority of all of the members of the council.*

(e) Except for members specified as a designee in subsection (b), members of the council may not appoint an individual to represent them on the council and only members of the council may vote.

(f) Members of the council shall receive mileage, tolls and parking as provided in K.S.A. 75-3223, and amendments thereto, for attendance at any meeting of the council or any subcommittee meeting authorized by the council.

Sec. 6. K.S.A. 75-7205 is hereby amended to read as follows: 75-7205. (a) There is hereby established within and as a part of the office of information technology services the position of executive chief information technology officer. The executive chief information technology officer shall be in the unclassified service under the Kansas civil service act, shall be appointed by the governor, and shall receive compensation in an amount fixed by the governor. The executive chief information technology officer shall maintain a presence in any cabinet established by the governor and shall report to the governor.

(b) The executive chief information technology officer shall:

(1) Review and consult with each executive agency regarding information technology plans, deviations from the state information technology architecture, information technology project estimates and information technology project changes and overruns submitted by such agency pursuant to K.S.A. 75-7209, and amendments thereto, to determine whether the agency has complied with:

(A) The information technology resource policies and procedures and project management methodologies adopted by the information technology executive council;

(B) the information technology architecture adopted by the information technology executive council;

(C) the standards for data management adopted by the information technology executive council; and

(D) the strategic information technology management plan adopted by the information technology executive council;

(2) report to the chief information technology architect all deviations from the state information architecture that are reported to the executive information technology officer by executive agencies;

(3) submit recommendations to the division of the budget as to the technical and management merit of information technology ~~project estimates~~ *projects* and information technology project changes and overruns submitted by executive agencies *that are reportable* pursuant to K.S.A. 75-7209, and amendments thereto, ~~based on the determinations made pursuant to subsection (b)(1);~~

(4) monitor executive agencies' compliance with:

(A) The information technology resource policies and procedures and project management methodologies adopted by the information technology executive council;

(B) the information technology architecture adopted by the information technology executive council;

(C) the standards for data management adopted by the information technology executive council; and

(D) the strategic information technology management plan adopted by the information technology executive council;

(5) coordinate implementation of new information technology among executive agencies and with the judicial and legislative chief information technology officers;

(6) designate the ownership of information resource processes and the lead agency for implementation of new technologies and networks shared by multiple agencies within the executive branch of state government; and

(7) perform such other functions and duties as provided by law or as directed by the governor.

Sec. 7. K.S.A. 75-7206 is hereby amended to read as follows: 75-7206.

(a) There is hereby established within and as a part of the office of the state judicial administrator the position of judicial chief information technology officer. The judicial chief information technology officer shall be appointed by the judicial administrator, subject to approval of the chief justice, and shall receive compensation determined by the judicial administrator, subject to approval of the chief justice.

(b) The judicial chief information technology officer shall:

(1) Review and consult with each judicial agency regarding information technology plans, deviations from the state information technology architecture, information technology project estimates and information technology project changes and overruns submitted by such agency pursuant to K.S.A. 75-7209, and amendments thereto, to determine whether the agency has complied with:

(A) The information technology resource policies and procedures and project management methodologies adopted by the information technology executive council;

(B) the information technology architecture adopted by the information technology executive council;

(C) the standards for data management adopted by the information technology executive council; and

(D) the strategic information technology management plan adopted by the information technology executive council;

(2) report to the chief information technology architect all deviations from the state information architecture that are reported to the judicial information technology officer by judicial agencies;

(3) submit recommendations to the judicial administrator as to the technical and management merit of information technology project estimates ~~and information technology project changes and overruns submitted by judicial agencies that are reportable pursuant to K.S.A. 75-7209, and amendments thereto, based on the determinations pursuant to subsection (b)(1);~~

(4) monitor judicial agencies' compliance with:

(A) The information technology resource policies and procedures and

project management methodologies adopted by the information technology executive council;

(B) the information technology architecture adopted by the information technology executive council;

(C) the standards for data management adopted by the information technology executive council; and

(D) the strategic information technology management plan adopted by the information technology executive council;

(5) coordinate implementation of new information technology among judicial agencies and with the executive and legislative chief information technology officers;

(6) designate the ownership of information resource processes and the lead agency for implementation of new technologies and networks shared by multiple agencies within the judicial branch of state government; and

(7) perform such other functions and duties as provided by law or as directed by the judicial administrator.

Sec. 8. K.S.A. 75-7208 is hereby amended to read as follows: 75-7208. The legislative chief information technology officer shall:

(a) Review and consult with each legislative agency regarding information technology plans, deviations from the state information technology architecture, information technology project estimates and information technology project changes and overruns submitted by such agency pursuant to K.S.A. 75-7209, and amendments thereto, to determine whether the agency has complied with *the*:

(1)~~the~~ Information technology resource policies and procedures and project management methodologies adopted by the information technology executive council;

(2)~~the~~ information technology architecture adopted by the information technology executive council;

(3)~~the~~ standards for data management adopted by the information technology executive council; and

(4)~~the~~ strategic information technology management plan adopted by the information technology executive council;

(b) report to the chief information technology architect all deviations from the state information architecture that are reported to the legislative information technology officer by legislative agencies;

(c) submit recommendations to the legislative coordinating council as to the technical and management merit of information technology ~~project estimates~~ *projects* and information technology project changes and overruns submitted by legislative agencies *that are reportable* pursuant to K.S.A. 75-7209, and amendments thereto, ~~based on the determinations pursuant to subsection (a);~~

- (d) monitor legislative agencies' compliance with *the*:
- (1) ~~The~~ Information technology resource policies and procedures and project management methodologies adopted by the information technology executive council;
- (2) ~~the~~ information technology architecture adopted by the information technology executive council;
- (3) ~~the~~ standards for data management adopted by the information technology executive council; and
- (4) ~~the~~ strategic information technology management plan adopted by the information technology executive council;
- (e) coordinate implementation of new information technology among legislative agencies and with the executive and judicial chief information technology officers;
- (f) designate the ownership of information resource processes and the lead agency for implementation of new technologies and networks shared by multiple agencies within the legislative branch of state government;
- (g) serve as staff of the joint committee; and
- (h) perform such other functions and duties as provided by law or as directed by the legislative coordinating council or the joint committee.

Sec. 9. K.S.A. 75-7209 is hereby amended to read as follows: 75-7209. (a) (1) Whenever an agency proposes an information technology project, such agency shall prepare and submit *information technology project documentation* to the chief information technology officer of the branch of state government of which the agency is a part of a project budget estimate therefor, and for each amendment or revision thereof, in accordance with this section. Each information technology project budget estimate shall be in such form as required by the director of the budget, in consultation with the chief information technology architect, and by this section. In each case, the agency shall prepare and include as a part of such project budget estimate a plan consisting of a written program statement describing the project. The program statement shall:

- (1) ~~Include a detailed description of and justification for the project, including: (A) An analysis of the programs, activities and other needs and intended uses for the additional or improved information technology; (B) a statement of project scope including identification of the organizations and individuals to be affected by the project and a definition of the functionality to result from the project; and (C) an analysis of the alternative means by which such information technology needs and uses could be satisfied;~~
- (2) ~~describe the tasks and schedule for the project and for each phase of the project, if the project is to be completed in more than one phase;~~
- (3) ~~include a financial plan showing: (A) The proposed source of funding and categorized expenditures for each phase of the project; and (B) cost estimates for any needs analyses or other investigations, consulting or~~

other professional services, computer programs, data, equipment, buildings or major repairs or improvements to buildings and other items or services necessary for the project; and

~~(4) include a cost benefit statement based on an analysis of qualitative as well as financial benefits. Such information technology project documentation shall:~~

~~(A) Include a financial plan showing the proposed source of funding and categorized expenditures for each phase of the project and cost estimates for any needs analyses or other investigations, consulting or other professional services, computer programs, data, equipment, buildings or major repairs or improvements to buildings and other items or services necessary for the project; and~~

~~(B) be consistent with:~~

~~(i) Information technology resource policies and procedures and project management methodologies for all state agencies;~~

~~(ii) an information technology architecture, including telecommunications systems, networks and equipment, that covers all state agencies;~~

~~(iii) standards for data management for all state agencies; and~~

~~(iv) a strategic information technology management plan for the state.~~

~~(2) Any information technology project with significant business risk, as determined pursuant to the information technology executive council's policies, shall be presented to the joint committee on information technology by such branch chief information technology officer.~~

~~(b) (1) Before one or more state agencies proposing an information technology project begin implementation of the project, the project plan, including the architecture and the cost benefit analysis, shall be approved by the head of each state agency proposing the project and by the chief information technology officer of each branch of state government of which the agency or agencies are a part. Approval of those projects that involve telecommunications services shall also be subject to the provisions of K.S.A. 75-4709, 75-4710 and 75-4712, and amendments thereto.~~

~~(2) All specifications for bids or proposals related to an approved information technology project of one or more state agencies shall be reviewed by the chief information technology officer of each branch of state government of which the agency or agencies are a part. Prior to the release of any request for proposal for an information technology project with significant business risk:~~

~~(A) Specifications for bids or proposals for such project shall be submitted to the chief information technology officer of the branch of state government of which the agency or agencies are a part. Information technology projects requiring chief information technology officer approval shall also require the chief information technology officer's written approval on specifications for bids or proposals; and~~

(B) (i) *The chief information technology officer of the appropriate branch over the state agency or agencies that are involved in such project shall submit the project, the project plan, including the architecture, and the cost-benefit analysis to the joint committee on information technology to advise and consult on the project. Such chief information technology officer shall submit such information to each member of the joint committee and to the director of the legislative research department. Each such project plan summary shall include a notice specifying the date the summary was mailed or emailed. After receiving any such project plan summary, each member shall review the information and may submit questions, requests for additional information or request a presentation and review of the proposed project at a meeting of the joint committee. If two or more members of the joint committee contact the director of the legislative research department within seven business days of the date specified in the summary description and request that the joint committee schedule a meeting for such presentation and review, then the director of the legislative research department shall notify the chief information technology officer of the appropriate branch, the head of such agency and the chairperson of the joint committee that a meeting has been requested for such presentation and review on the next business day following the members' contact with the director of the legislative research department. Upon receiving such notification, the chairperson shall call a meeting of the joint committee as soon as practicable for the purpose of such presentation and review and shall furnish the chief information technology officer of the appropriate branch and the head of such agency with notice of the time, date and place of the meeting. Except as provided in subsection (b)(1)(B)(ii), the state agency shall not authorize or approve the release of any request for proposal or other bid event for an information technology project without having first advised and consulted with the joint committee at a meeting.*

(ii) *The state agency or agencies shall be deemed to have advised and consulted with the joint committee about such proposed release of any request for proposal or other bid event for an information technology project and may authorize or approve such proposed release of any request for proposal or other bid event for an information technology project if:*

(a) *Fewer than two members of the joint committee contact the director of the legislative research department within seven business days of the date the project plan summary was mailed and request a committee meeting for a presentation and review of any such proposed request for proposal or other bid event for an information technology project; or*

(b) *a committee meeting is requested by at least two members of the joint committee pursuant to this paragraph, but such meeting does not*

occur within two calendar weeks of the chairperson receiving the notification from the director of the legislative research department of a request for such meeting.

~~(3)(2)~~ (A) Agencies are prohibited from contracting with a vendor to implement the project if that vendor prepared or assisted in the preparation of the program statement ~~required under subsection (a)~~, the project planning documents ~~required under subsection (b)(1)~~, or any other project plans prepared prior to the project being approved by the chief information technology officer as ~~required under subsection (b)(1) by this section.~~

(B) Information technology projects with an estimated cumulative cost of less than \$5,000,000 are exempted from the provisions of subparagraph (A).

(C) The provisions of subparagraph (A) may be waived with prior written permission from the chief information technology officer.

(c) Annually at the time specified by the chief information technology officer of the branch of state government of which the agency is a part, each agency shall submit to such officer:

(1) A copy of a three-year strategic information technology plan that sets forth the agency's current and future information technology needs and utilization plans for the next three ensuing fiscal years, in such form and containing such additional information as prescribed by the chief information technology officer; and

(2) any deviations from the state information technology architecture adopted by the information technology executive council.

(d) The provisions of this section shall not apply to the information network of Kansas (INK).

Sec. 10. K.S.A. 75-7210 is hereby amended to read as follows: 75-7210. ~~(a)~~ Not later than ~~October~~ *November* 1 of each year, the executive, judicial and legislative chief information technology officers shall submit to the joint committee and to the legislative research department all information technology project budget estimates and amendments and revisions thereto, all three-year plans and all deviations from the state information technology architecture submitted to such officers pursuant to K.S.A. 75-7209, and amendments thereto. ~~The legislative chief information technology officer~~ *joint committee* shall review all such estimates and amendments and revisions thereto, plans and deviations and shall make recommendations to the ~~joint committee~~ *house standing committee on appropriations and the senate standing committee on ways and means* regarding the merit thereof and appropriations therefor.

~~(b)~~ ~~The executive and judicial chief information technology officers shall report to the legislative chief information technology officer, at times agreed upon by the three officers:~~

~~(1) Progress regarding implementation of information technology projects of state agencies within the executive and judicial branches of state government; and~~

~~(2) all proposed expenditures for such projects, including all revisions to such proposed expenditures, for the current fiscal year and for ensuing fiscal years.~~

Sec. 11. K.S.A. 75-7211 is hereby amended to read as follows: 75-7211. (a) ~~The legislative chief information technology officer, under the direction of the joint committee, shall monitor state agency execution of reported information technology projects and, at times agreed upon by. The joint committee shall require the three chief information technology officers, shall to report progress regarding the implementation of such projects and all proposed expenditures therefor, including all revisions to such proposed expenditures for the current fiscal year and for ensuing fiscal years.~~

(b) *For information technology projects, the joint committee may:*

~~(1) Require the head of a any state agency with primary responsibility for an information technology project may authorize or approve, without prior consultation with the joint committee, any change in planned expenditures for an information technology project that would result in the total cost of the project being increased above the currently authorized cost of such project but that increases the total cost of such project by less than the lower of either \$1,000,000 or 10% of the currently authorized cost, and any change in planned expenditures for an information technology project involving a cost reduction, other than a change in the proposed use of any new or replacement information technology equipment or in the use of any existing information technology equipment that has been significantly upgraded to advise and consult on the status and progress of such information technology project, including revisions to expenditures for the current fiscal year and ensuing fiscal years; and~~

~~(2) report on the status and progress of such information technology projects to the senate standing committee on ways and means, the house of representatives standing committee on appropriations and the legislative budget committee.~~

~~(c) Prior to authorizing or approving any information technology project change or overrun, the head of a state agency with primary responsibility for an such information technology project shall not authorize or approve, without first advising and consulting with the joint committee any information technology project change or overrun report all such information technology project changes or overruns to the joint committee through the chief information technology officer of the branch of state government of which the agency is a part pursuant to the information technology executive council's policy. The joint committee shall report all~~

such changes and overruns to the senate standing committee on ways and means ~~and~~, the house of *representatives* standing committee on appropriations *and the legislative budget committee*.

Sec. 12. K.S.A. 75-7237 is hereby amended to read as follows: 75-7237. As used in K.S.A. 75-7236 through 75-7243, and amendments thereto:

- (a) “Act” means the Kansas cybersecurity act.
- (b) “Breach” or “breach of security” means unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of an executive branch agency does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use.
- (c) “CISO” means the executive branch chief information security officer.
- (d) “Cybersecurity” is the body of information technologies, processes and practices designed to protect networks, computers, programs and data from attack, damage or unauthorized access.
- (e) “Cybersecurity positions” do not include information technology positions within executive branch agencies.
- (f) “Data in electronic form” means any data stored electronically or digitally on any computer system or other database and includes recordable tapes and other mass storage devices.
- (g) “Executive branch agency” means any agency in the executive branch of the state of Kansas, but does not include elected office agencies, the adjutant general’s department, the Kansas public employees retirement system, regents’ institutions, or the board of regents.
- (h) “KISO” means the Kansas information security office.
- (i) (1) “Personal information” means:
 - (A) An individual’s first name or first initial and last name, in combination with at least one of the following data elements for that individual:
 - (i) Social security number;
 - (ii) driver’s license or identification card number, passport number, military identification number or other similar number issued on a government document used to verify identity;
 - (iii) financial account number or credit or debit card number, in combination with any security code, access code or password that is necessary to permit access to an individual’s financial account;
 - (iv) any information regarding an individual’s medical history, mental or physical condition or medical treatment or diagnosis by a healthcare professional; or
 - (v) an individual’s health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual; or

(B) a user name or email address, in combination with a password or security question and answer that would permit access to an online account.

(2) “Personal information” does not include information:

(A) About an individual that has been made publicly available by a federal agency, state agency or municipality; or

(B) that is encrypted, secured or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.

(j) *“State agency” means the same as defined in K.S.A. 75-7201, and amendments thereto.*

Sec. 13. K.S.A. 75-7238 is hereby amended to read as follows: 75-7238. (a) There is hereby established the position of executive branch chief information security officer. The CISO shall be in the unclassified service under the Kansas civil service act, shall be appointed by the governor and shall receive compensation in an amount fixed by the governor.

(b) The CISO shall:

(1) Report to the executive branch chief information technology officer;

(2) serve as the state’s CISO;

(3) serve as the executive branch chief cybersecurity strategist and authority on policies, compliance, procedures, guidance and technologies impacting executive branch cybersecurity programs;

(4) ensure Kansas information security office resources assigned or provided to executive branch agencies are in compliance with applicable laws and rules and regulations;

(5) coordinate cybersecurity efforts between executive branch agencies;

(6) provide guidance to executive branch agencies when compromise of personal information or computer resources has occurred or is likely to occur as the result of an identified high-risk vulnerability or threat; ~~and~~

(7) *set cybersecurity policy and standards for executive branch agencies; and*

(8) perform such other functions and duties as provided by law and as directed by the executive chief information technology officer.

Sec. 14. K.S.A. 75-7239 is hereby amended to read as follows: 75-7239. (a) There is hereby established within and as a part of the office of information technology services the Kansas information security office. The Kansas information security office shall be administered by the CISO and be staffed appropriately to effect the provisions of the Kansas cybersecurity act.

(b) For the purpose of preparing the governor’s budget report and related legislative measures submitted to the legislature, the Kansas in-

formation security office, established in this section, shall be considered a separate state agency and shall be titled for such purpose as the “Kansas information security office.” The budget estimates and requests of such office shall be presented as from a state agency separate from the ~~department of administration~~ *office of information technology services*, and such separation shall be maintained in the budget documents and reports prepared by the director of the budget and the governor, or either of them, including all related legislative reports and measures submitted to the legislature.

(c) Under direction of the CISO, the KISO shall:

(1) Administer the Kansas cybersecurity act;

(2) assist the executive branch in developing, implementing and monitoring strategic and comprehensive information security risk-management programs;

(3) facilitate executive branch information security governance, including the consistent application of information security programs, plans and procedures;

(4) using standards adopted by the information technology executive council, create and manage a unified and flexible control framework to integrate and normalize requirements resulting from applicable state and federal laws, and rules and regulations;

(5) facilitate a metrics, logging and reporting framework to measure the efficiency and effectiveness of state information security programs;

(6) provide the executive branch strategic risk guidance for information technology projects, including the evaluation and recommendation of technical controls;

(7) assist in the development of executive branch agency cybersecurity programs ~~that are in~~ *to ensure* compliance with applicable state and federal laws ~~and~~ rules and regulations, *executive branch policies and standards and policies* and standards adopted by the information technology executive council;

(8) *perform audits of executive branch agencies for compliance with applicable state and federal laws, rules and regulations, executive branch policies and standards and policies and standards adopted by the information technology executive council;*

(9) coordinate the use of external resources involved in information security programs, including, but not limited to, interviewing and negotiating contracts and fees;

~~(9)~~(10) liaise with external agencies, such as law enforcement and other advisory bodies as necessary, to ensure a strong security posture;

~~(10)~~(11) assist in the development of plans and procedures to manage and recover business-critical services in the event of a cyberattack or other disaster;

~~(11)~~(12) assist executive branch agencies to create a framework for roles and responsibilities relating to information ownership, classification, accountability and protection;

~~(12)~~(13) ensure a cybersecurity training program is provided to executive branch agencies at no cost to the agencies *awareness training program is made available to all branches of state government*;

~~(13)~~ provide cybersecurity threat briefings to the information technology executive council;

~~(14)~~ provide an annual status report of executive branch cybersecurity programs of executive branch agencies to the joint committee on information technology and the house committee on government, technology and security; and

~~(15)~~(14) perform such other functions and duties as provided by law and as directed by the CISO.

(d) Results of audits conducted pursuant to subsection (c)(8) shall be confidential and shall not be subject to discovery or disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2028, unless the legislature reviews and acts to continue such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

Sec. 15. K.S.A. 75-7240 is hereby amended to read as follows: 75-7240. (a) The executive branch agency heads shall:

~~(a)~~(1) Be solely responsible for security of all data and information technology resources under such agency's purview, irrespective of the location of the data or resources. Locations of data may include:

~~(1)~~(A) Agency sites;

~~(2)~~(B) agency real property;

~~(3)~~(C) infrastructure in state data centers;

~~(4)~~(D) third-party locations; and

~~(5)~~(E) in transit between locations;

~~(b)~~(2) ensure that an agency-wide information security program is in place;

~~(c)~~(3) designate an information security officer to administer the agency's information security program that reports directly to executive leadership;

~~(d)~~(4) participate in CISO-sponsored statewide cybersecurity program initiatives and services;

~~(e)~~(5) implement policies and standards to ensure that all the agency's data and information technology resources are maintained in compliance with applicable state and federal laws and rules and regulations;

~~(f)~~(6) implement appropriate cost-effective safeguards to reduce, eliminate or recover from identified threats to data and information technology resources;

~~(g)~~(7) include all appropriate cybersecurity requirements in the agency's request for proposal specifications for procuring data and information technology systems and services;

~~(h)~~(1)(8) (A) submit a cybersecurity ~~assessment~~ *self-assessment* report to the CISO by October 16 of each even-numbered year, including an executive summary of the findings, that assesses the extent to which a ~~computer, a computer program, a computer network, a computer system, a printer, an interface to a computer system, including mobile and peripheral devices, computer software, or the data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, erasure or inappropriate use;~~

~~(2)~~(B) ensure that the agency conducts annual internal assessments of its security program. Internal assessment results shall be considered confidential and shall not be subject to discovery by or release to any person or agency, outside of the KISO or CISO, *without authorization from the executive branch agency director or head*. This provision regarding confidentiality shall expire on July 1, 2023, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023; and

~~(3)~~(C) prepare or have prepared a ~~summary~~ *financial summary identifying cybersecurity expenditures addressing the findings* of the cybersecurity ~~assessment~~ *self-assessment* report required in ~~paragraph (1) subparagraph (A)~~, excluding information that might put the data or information resources of the agency or its contractors at risk and submit such report to the house of representatives committee on ~~government, technology and security or its successor committee~~ *appropriations* and the senate committee on ways and means;

~~(i)~~ participate in annual agency leadership training to ensure understanding of: (1) The information and information systems that support the operations and assets of the agency; (2) The potential impact of common types of cyberattacks and data breaches on the agency's operations and assets; (3) how cyberattacks and data breaches on the agency's operations and assets could impact the operations and assets of other governmental entities on the state enterprise network; (4) how cyberattacks and data breaches occur; (5) steps to be undertaken by the executive director or agency head and agency employees to protect their information and information systems; and (6) the annual reporting requirements required of the executive director or agency head; and

~~(j)~~(9) ensure that if an agency owns, licenses or maintains computerized data that includes personal information, confidential information or information, the disclosure of which is regulated by law, such agency

shall, in the event of a breach or suspected breach of system security or an unauthorized exposure of that information:

~~(1)~~(A) Comply with the notification requirements set out in K.S.A. 2022 Supp. 50-7a01 et seq., and amendments thereto, and applicable federal laws and rules and regulations, to the same extent as a person who conducts business in this state; and

~~(2)~~(B) not later than 48 hours after the discovery of the breach, suspected breach or unauthorized exposure, notify: ~~(A)~~(i) The CISO; and ~~(B)~~(ii) if the breach, suspected breach or unauthorized exposure involves election data, the secretary of state.

(b) *The director or head of each state agency shall:*

(1) *Participate in annual agency leadership training to ensure understanding of:*

(A) *The potential impact of common types of cyberattacks and data breaches on the agency's operations and assets;*

(B) *how cyberattacks and data breaches on the agency's operations and assets may impact the operations and assets of other governmental entities on the state enterprise network;*

(C) *how cyberattacks and data breaches occur; and*

(D) *steps to be undertaken by the executive director or agency head and agency employees to protect their information and information systems;*

(2) *ensure that all information technology login credentials are disabled the same day that any employee ends their employment with the state; and*

(3) *require that all employees with access to information technology receive a minimum of one hour of information technology security training per year.*

(c) (1) *The CISO, with input from the joint committee on information technology and the joint committee on Kansas security, shall develop a self-assessment report template for use under subsection (a)(8)(A). The most recent version of such template shall be made available to state agencies prior to July 1 of each even-numbered year. The CISO shall aggregate data from the self-assessments received under subsection (a)(8)(A) and provide a summary of such data to the joint committee on information technology and the joint committee on Kansas security.*

(2) *Self-assessment reports made to the CISO pursuant to subsection (a)(8)(A) shall be confidential and shall not be subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this paragraph shall expire on July 1, 2028, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.*

Sec. 16. K.S.A. 75-7242 is hereby amended to read as follows: 75-7242. Information collected to effectuate this act shall be considered

confidential by ~~the executive branch agency and KISO~~ *all state and local governmental organizations* unless all data elements or information that specifically identifies a target, vulnerability or weakness that would place the organization at risk have been redacted, including: (a) System information logs; (b) vulnerability reports; (c) risk assessment reports; (d) system security plans; (e) detailed system design plans; (f) network or system diagrams; and (g) audit reports. The provisions of this section shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

Sec. 17. K.S.A. 46-2102, 74-5704, 75-7201, 75-7202, 75-7205, 75-7206, 75-7208, 75-7209, 75-7210, 75-7211, 75-7237, 75-7238, 75-7239, 75-7240 and 75-7242 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 18, 2023.

CHAPTER 76

SENATE BILL No. 205

AN ACT concerning water; relating to water rights; authorizing certain water rights in a water bank to participate in multi-year flex accounts on a temporary basis; amending K.S.A. 2022 Supp. 82a-736 and repealing the existing section.

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

New Section 1. (a) Notwithstanding any prohibition or restriction on the establishment of multi-year flex accounts due to participation of a base water right in a water bank established pursuant to the Kansas water banking act, K.S.A. 82a-761 et seq., and amendments thereto, the chief engineer shall approve a complete application for the establishment of a multi-year flex account pursuant to K.S.A. 82a-736, and amendments thereto, that was submitted to the chief engineer on or before December 31, 2022, if such right otherwise meets the requirements of K.S.A. 82a-736, and amendments thereto, and could have been approved if not for the relevant base water right's participation in a water bank.

(b) This section shall expire on December 31, 2023.

New Sec. 2. (a) For purposes of K.S.A. 82a-736 and 82a-764, and amendments thereto, a water right or any portion of a water right that has been deposited, enrolled or placed in a safe deposit account associated with a water bank established pursuant to the Kansas water banking act, K.S.A. 82a-761 et seq., and amendments thereto, shall not be eligible to be enrolled in a multi-year flex account that begins during a calendar year in which water from such water right or portion of a water right was withdrawn from a safe deposit account. Water from a water right that has been deposited, enrolled or placed in a safe deposit account associated with a water bank established pursuant to the Kansas water banking act, K.S.A. 82a-761 et seq., and amendments thereto, shall not be withdrawn from a safe deposit account while such water right is enrolled in a multi-year flex account.

(b) A water right shall be considered enrolled in a multi-year flex account until the end of the calendar year in which the multi-year flex account permit expires, even if the allocation under the multi-year flex account is exhausted prior to the expiration of the multi-year flex account permit.

Sec. 3. K.S.A. 2022 Supp. 82a-736 is hereby amended to read as follows: 82a-736. (a) It is hereby recognized that an opportunity exists to improve water management by enabling multi-year flexibility in the use of water authorized to be diverted under a groundwater water right, provided that such flexibility neither impairs existing water rights, nor increases the total amount of water diverted, so that such flexibility has no long-term

negative effect on the source of supply. It is therefore declared necessary and advisable to permit the establishment of multi-year flex accounts for groundwater water rights, together with commensurate protections for existing water rights and their source of supply.

(b) As used in this section:

(1) “Alternative base average usage” means an allocation based on net irrigation requirements calculated pursuant to subsection (c)(1)(D)(ii) that may be used in place of the base average usage.

(2) “Base water right” means a water right under which an applicant applies to the chief engineer to establish a multi-year flex account and where all of the following conditions exist:

(A) The authorized source of supply is groundwater; and

(B) the water right is not currently the subject of a multi-year allocation due to a change approval that allows an expansion of the authorized place of use.

(3) “Multi-year flex account” means a term permit that suspends a base water right during its term, except when the term permit may be no longer exercised because of an order of the chief engineer, and is subject to the terms and conditions as provided in subsection (e).

(4) “Base average usage” means:

(A) The average amount of water actually diverted for the authorized beneficial use under the base water right during calendar years 2000 through 2009, excluding:

(i) Any amount diverted in any such year that exceeded the amount authorized by the base water right;

(ii) any amount applied to an unauthorized place of use; and

(iii) diversions in calendar years when water was diverted under a multi-year allocation with an expansion of the authorized place of use due to a change approval;

(B) if water use records are inadequate to accurately determine actual water use or upon demonstration of good cause by the applicant, the chief engineer may calculate the base average usage with less than all 10 calendar years during 2000 and 2009. In no case shall the base average usage be calculated with less than five calendar years during 2000 and 2009; or

(C) if the holder of the base water right shows to the satisfaction of the chief engineer that water conservation reduced water use under the base water right during calendar years 2000 through 2009, then the base average usage shall be calculated with the five calendar years immediately before the calendar year when water conservation began.

(5) “Chief engineer” means the chief engineer of the division of water resources of the department of agriculture.

(6) “Flex account acreage” means the maximum number of acres lawfully irrigated during a calendar year, except for any acres irrigated under a

multi-year allocation that allowed for an expansion of the authorized place of use due to a change approval and any of the following conditions are met:

- (A) The calendar year is 2000 through 2009;
 - (B) if water conservation reduced water use under the base water right during calendar years 2000 through 2009, the calendar year is a year within the five calendar years immediately prior to the calendar year when water conservation began; or
 - (C) if an application to appropriate water was approved after December 31, 2004, the calendar year is any during the perfection period.
- (7) “Net irrigation requirement” means the net irrigation requirement for 50% chance rainfall of the county that corresponds with the location of the authorized place of use of the base water right as provided in K.A.R. 5-5-12, on the effective date of this act.

(c) (1) *Except as provided in sections 1 and 2, and amendments thereto*, any holder of a base water right that has not been deposited or placed in a safe deposit account in a chartered water bank may establish a multi-year flex account where the holder may deposit, in advance, the authorized quantity of water from such water right for any five consecutive calendar years, except when the chief engineer determines a shorter period is necessary for compliance with a local enhanced management area or an intensive groundwater use control area and the corrective controls in the area do not prohibit the use of multi-year flex accounts, and subject to all of the following:

- (A) The water right must be vested or shall have been issued a certificate of appropriation;
- (B) the withdrawal of water pursuant to the water right shall be properly and adequately metered;
- (C) the water right is not deemed abandoned and is in compliance with the terms and conditions of its certificate of appropriation, all applicable provisions of law and orders of the chief engineer;
- (D) the amount of water deposited in the multi-year flex account shall not exceed the greatest of the following:
 - (i) 500% of the base average usage;
 - (ii) 500% of the product of the annual net irrigation requirement multiplied by the flex account acreage, multiplied by 110%, but not greater than five times the maximum annual quantity authorized by the base water right;
 - (iii) if the authorized place of use is located wholly within the boundaries of a groundwater management district, an amount that shall not increase the long-term average use of the groundwater right as specified by rule or regulation promulgated pursuant to K.S.A. 82a-1028(o), and amendments thereto; or
 - (iv) pursuant to subparagraph (F), the amount computed in (i), (ii) or (iii) plus any deposited water remaining in a multi-year flex account up to 100% of the base average usage or alternative base average usage;

(E) if the multi-year flex account is approved for less than five calendar years, the amount of water deposited in the multi-year flex account shall be prorated based on the number of calendar years approved and otherwise calculated as required by subsection (c)(1)(D)(i), (ii) or (iii); and

(F) any deposited water remaining in a multi-year flex account up to 100% of the base average usage or alternative base average usage may be added to the deposit amount calculated in subparagraph (D) if the base water right is enrolled in another multi-year flex account during the calendar year in which the existing multi-year flex account expires. The total amount of water deposited in any multi-year flex account shall not exceed 500% of the authorized quantity of the base water right.

(2) The provisions of K.A.R. 5-5-11 are limited to changes in annual authorized quantity and shall not apply to this subsection.

(d) The chief engineer shall implement a program providing for the issuance of term permits to holders of groundwater water rights who have established flex accounts in accordance with this section. Such term permits shall authorize the use of water in a flex account at any time during the consecutive calendar years for which the application for the term permit authorizing a multi-year flex account is made, without annual limits on such use.

(e) Term permits provided for by this section shall be subject to the following:

(1) A separate term permit shall be required for each point of diversion authorized by the base water right.

(2) The quantity of water authorized for diversion shall be limited to the amount deposited pursuant to subsection (c)(1)(D).

(3) The rate of diversion for each point of diversion authorized under the term permit shall not exceed the rate of diversion for each point of diversion authorized under the base water right.

(4) The authorized place of use shall be the place of use or a subdivision of the place of use for the base water right. Any approval of an application to change the place of use of the base water right shall automatically result in a change to the place of use for the term permit.

(5) The point of diversion authorized by the term permit shall be specified by referencing one point of diversion authorized by the base water right at the time the multi-year flex account term permit application is filed with the chief engineer or at the time any approvals changing such referenced point of diversion of the base water right are approved during the multi-year flex account period. For a base water right with multiple points of diversion, each point of diversion authorized by a term permit shall receive a specific assignment of a maximum authorized quantity of water, assigned proportionately to the authorized annual quantities of the respective points of diversion under the base water right.

(6) The chief engineer may establish, by rules and regulations, criteria for such term permits.

(7) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(f) An application for a multi-year flex account shall be filed with the chief engineer on or before December 31 of the first year of the multi-year flex account term for which the application is being made.

(g) All costs of administration of this section shall be paid from fees for term permits provided for by this section. Any appropriation or transfer from any fund other than the water appropriation certification fund for the purpose of paying such costs shall be repaid to the fund from where such appropriation or transfer is made. At the time of repayment, the secretary of agriculture shall certify to the director of accounts and reports the amount to be repaid and the fund to be repaid. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified to the specified fund.

(h) The fee for a multi-year flex account term permit shall be the same as specified for other term permits in K.S.A. 82a-708c, and amendments thereto.

(i) The chief engineer shall have full authority pursuant to K.S.A. 82a-706c, and amendments thereto, to require any additional measuring devices and any additional reporting of water use for term permits issued pursuant to this section. Failure to comply with any measuring or reporting requirement may result in a penalty, up to and including the revocation of the term permit and the suspension of the base water right for the duration of the term permit period.

(j) The chief engineer shall submit a written report on the implementation of this section to the house standing committee on agriculture and natural resources and the senate standing committee on natural resources on or before February 1 of each year.

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

Sec. 4. K.S.A. 2022 Supp. 82a-736 is hereby repealed.

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

Approved April 24, 2023.

Published in the *Kansas Register* May 4, 2023.

CHAPTER 77

HOUSE BILL No. 2130

AN ACT concerning the Kansas probate code; permitting a copy of a will to be filed and admitted to probate; increasing certain dollar amounts; relating to allowance to spouse and minor children; supplemental elective share amount; transfers within two years of death; homestead or homestead allowance; payment of benefits to certain relatives; small estates affidavit for personal property; remission of court costs for small estates; exhibition of demands and allowance without a hearing; refusal to grant letters of administration; appealable orders and bond; requests for transfer from magistrate to district judge; adjusting time requirements linked to notice by publication and mailing; relating to hearing dates; sales at public auction; clarifying how property held under a transfer-on-death deed is distributed when one beneficiary predeceases the grantor; amending K.S.A. 59-6a202, 59-6a205, 59-1507a, 59-2209, 59-2215, 59-2237 and 59-2308 and K.S.A. 2022 Supp. 59-403, 59-618a, 59-6a215, 59-1507b, 59-2287, 59-2401, 59-2402a and 59-3504 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 59-403 is hereby amended to read as follows: 59-403. When a resident of the state dies, testate or intestate, the surviving spouse shall be allowed, for the benefit of such spouse and the decedent's minor children during the period of their minority, from the personal or real property of which the decedent was possessed or to which the decedent was entitled at the time of death, the following:

(a) The wearing apparel, family library, pictures, musical instruments, furniture and household goods, utensils and implements used in the home, one automobile, and provisions and fuel on hand necessary for the support of the spouse and minor children for one year.

(b) A reasonable allowance of not more than ~~\$50,000~~ \$75,000 in money or other personal or real property at its appraised value in full or part payment thereof, with the exact amount of such allowance to be determined and ordered by the court, after taking into account the condition of the estate of the decedent.

The property shall not be liable for the payment of any of decedent's debts or other demands against the decedent's estate, except liens thereon existing at the time of the decedent's death. If there are no minor children, the property shall belong to the spouse; if there are minor children and no spouse, it shall belong to the minor children. The selection shall be made by the spouse, if living, otherwise by the guardian of the minor children. In case any of the decedent's minor children are not living with the surviving spouse, the court may make such division as the court deems equitable.

Sec. 2. K.S.A. 2022 Supp. 59-618a is hereby amended to read as follows: 59-618a. (a) Any person possessing a decedent's will may file in the district court of the county of the decedent's last residence the decedent's

will or a copy of such will and an affidavit ~~which~~ that complies with subsection (b).

(b) (1) An affidavit filed pursuant to this section shall state:

~~(1)~~(A) The name, residence address and date and place of death of the decedent;

~~(2)~~(B) the names, addresses and relationships of all the decedent's heirs, legatees and devisees which are known to the affiant after a diligent search and inquiry;

~~(3)~~(C) the name and address of any trustee of any trust established under the will;

~~(4)~~(D) that the will is being filed with the district court for the purpose of preserving it for record in the event that probate proceedings are later required; and

~~(5)~~(E) that a copy of the affidavit and will has been mailed to each heir, legatee and devisee named in the affidavit.

(2) *An affidavit filed pursuant to this section on or after July 1, 2023, shall state whether the original will or a copy of such will is being filed with the court.*

(c) Any will or copy of a will filed pursuant to this section within a period of six months after the death of the testator may be admitted to probate after such six-month period.

Sec. 3. K.S.A. 59-6a202 is hereby amended to read as follows: 59-6a202. (a) (1) The surviving spouse of a decedent who dies a resident of this state has a right of election, under the limitations and conditions stated in this act, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, in accordance with the following schedule:

If the decedent and the spouse were married to each other:	The elective-share percentage is:
Less than 1 year	Supplemental amount only
1 year but less than 2 years	3% of the augmented estate
2 years but less than 3 years	6% of the augmented estate
3 years but less than 4 years	9% of the augmented estate
4 years but less than 5 years	12% of the augmented estate
5 years but less than 6 years	15% of the augmented estate
6 years but less than 7 years	18% of the augmented estate
7 years but less than 8 years	21% of the augmented estate
8 years but less than 9 years	24% of the augmented estate
9 years but less than 10 years	27% of the augmented estate
10 years but less than 11 years	30% of the augmented estate
11 years but less than 12 years	34% of the augmented estate
12 years but less than 13 years	38% of the augmented estate

13 years but less than 14 years..... 42% of the augmented estate
 14 years but less than 15 years..... 46% of the augmented estate
 15 years or more..... 50% of the augmented estate

(2) If the decedent and the surviving spouse were married to each other more than once, all periods of marriage to each other are added together for purposes of this subsection. Periods between marriages are not counted.

(b) If the sum of the amounts described in K.S.A. 59-6a207, ~~subsection (a)(1) of K.S.A. and~~ 59-6a209(a)(1), and amendments thereto, and that part of the elective-share amount payable from the decedent's probate estate and nonprobate transfers to others under ~~subsections (b) and (c) of K.S.A. 59-6a209(b) and (c), and amendments thereto,~~ is less than ~~\$50,000~~ \$100,000, the surviving spouse is entitled to a supplemental elective-share amount equal to ~~\$50,000~~ \$100,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in ~~subsections (b) and (c) of K.S.A. 59-6a209(b) and (c), and amendments thereto.~~

(c) If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse's homestead allowance, and family allowance, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(d) The right, if any, of the surviving spouse of a decedent who dies a nonresident of this state to take an elective share in property in this state is governed by article 8 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 59-6a205 is hereby amended to read as follows: 59-6a205. The value of the augmented estate includes the value of the decedent's nonprobate transfers to others, not included under K.S.A. 59-6a204, and amendments thereto, of any of the following types, in the amount provided respectively for each type of transfer:

(a) Property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death. Property included under this category consists of:

(1) Property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment. The amount included is the value of the property subject to the power, to the extent that such property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(2) The decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship. The amount included

is the value of the decedent's fractional interest, to the extent that such fractional interest passed by right of survivorship at the decedent's death to the surviving joint tenant other than the decedent's surviving spouse.

(3) The decedent's ownership interest in property or accounts passing to another upon decedent's death. The amount included is the value of the decedent's ownership interest, to the extent that the decedent's ownership interest passed at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(4) Proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before death or if and to the extent that the decedent alone and immediately before death held a presently exercisable general power of appointment over the policy or its proceeds. The amount included is the value of the proceeds, to the extent that they were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b) Property transferred in any of the following forms by the decedent during marriage:

(1) Any irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property if and to the extent that the decedent's right terminated at or continued beyond the decedent's death. The amount included is the value of the fraction of the property to which the decedent's right related, to the extent that such fraction of the property passed outside probate to or for the benefit of any person other than the decedent's estate or surviving spouse.

(2) Any transfer in which the decedent created a power over income or property, exercisable by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party, to or for the benefit of the decedent, the creditors of the decedent, the decedent's estate, or creditors of the decedent's estate. The amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent that the power in either case was exercisable at the decedent's death to or for the benefit of any person other than the decedent's surviving spouse or to the extent that the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse. If the power is a power over both income and property and the preceding sentence produces different amounts, the amount included is the greater amount.

(c) Property that passed during marriage and during the two-year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the following types:

(1) Any property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under subparagraph (a)(1), (2), or (3), or under subparagraph (c)(2), if the right, interest, or power had not terminated until the decedent's death. The amount included is the value of the property that would have been included under those subparagraphs, if the property were valued at the time that the right, interest, or power terminated, and is included only to the extent that the property passed upon termination to or for the benefit of any person other than the decedent or the decedent's estate, spouse, or surviving spouse. As used in this subparagraph, "termination," with respect to a right or interest in property, occurs when the right or interest terminated by the terms of the governing instrument or the decedent transferred or relinquished the right or interest, and, with respect to a power over property, occurs when the power terminated by exercise, release, lapse, default, or otherwise, but, with respect to a power described in paragraph (a)(1), "termination" occurs when the power terminated by exercise or release, but not otherwise.

(2) Any transfer of or relating to an insurance policy on the life of the decedent if the proceeds would have been included in the augmented estate under subparagraph (a)(4) had the transfer not occurred. The amount included is the value of the insurance proceeds to the extent that the proceeds were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(3) Any transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse. The amount included is the value of the transferred property to the extent that the aggregate transfers to any one donee in either of the two years exceeded ~~\$10,000~~ \$25,000.

Sec. 5. K.S.A. 2022 Supp. 59-6a215 is hereby amended to read as follows: 59-6a215. A surviving spouse is entitled to the homestead, or in lieu thereof the surviving spouse may elect to receive a homestead allowance of ~~\$50,000~~ \$75,000. The homestead or homestead allowance is exempt from and has priority over all demands against the estate. The homestead or homestead allowance is in addition to any share passing to the surviving spouse by way of elective share.

Sec. 6. K.S.A. 59-1507a is hereby amended to read as follows: 59-1507a. (a) If not less than 180 days after the death of an individual entitled at the time of death to a monthly benefit or benefits under title II of the social security act or under any veterans administration program or public or private retirement or annuity plan, all or part of the amount of such benefit or benefits, not in excess of ~~\$5,000~~ \$10,000, is paid to: (1) The surviving spouse;; (2) one or more of the deceased's children, or descendants of the deceased's deceased children;; (3) the deceased's father or mother;;

or (4) the deceased's brother or sister; Preference ~~being~~ *shall be* given in the order named if more than one request for payment has been made by or for the named individuals. Such payment shall be deemed to be a payment to the personal representative of the decedent and shall constitute a full discharge and release from any further claim for such payment to the same extent as if such payment had been made to an executor or administrator of the decedent's estate.

(b) The provisions of subsection (a) shall apply only if an affidavit has been made and filed with the appropriate governmental office or private company responsible for the benefit by the surviving spouse or other relative by whom or on whose behalf request for payment is made and such affidavit shows: (1) The date of death of the deceased; (2) the relationship of the affiant to the deceased; (3) that no executor or administrator for the deceased has qualified or been appointed; and (4) that, to the affiant's knowledge, there exists at the time of the filing of such affidavit, no relative of a closer degree of kindred to the deceased than the affiant.

Sec. 7. K.S.A. 2022 Supp. 59-1507b is hereby amended to read as follows: 59-1507b. When a resident of the state dies, whether testate or intestate, if the total assets of the estate of the decedent subject to probate do not exceed ~~\$40,000~~ \$75,000 in value, any personal property of whatever nature transferable to the decedent's estate by any entity or person shall be transferred to the successor or successors of the decedent, if entitled thereto by will or by intestate succession, without having been granted letters of administration or letters testamentary, upon such successor's or successors' furnishing the entity or person with an affidavit showing entitlement thereto. Transfer of such personal property to the successor or successors shall be deemed to be a transfer to the personal representative of the decedent, and the receipt of the successor or successors shall constitute a full discharge and release from any further claim for such transfer to the same extent as if the transfer had been made to an executor or administrator of the decedent's estate. The affidavit required herein shall be deemed sufficient if in substantial compliance with the form set forth by the judicial council.

Sec. 8. K.S.A. 59-2209 is hereby amended to read as follows: 59-2209. (a) When notice of hearing is required by any provision of this act by specific reference to this section, such notice shall be published once ~~a~~ *per* week for three consecutive weeks in some newspaper of the county authorized by law to publish legal notices. The first publication shall be made within ~~10~~ 30 days after the order fixing the time and place of the hearing and, within seven days after the first published notice, the petitioner shall mail or cause to be mailed, postage prepaid, a copy of the notice to each heir, devisee and legatee or guardian and ward, conservator and conservatee or guardian ad litem, as the case may be, other than the

petitioner, whose name and address is known to the petitioner. A copy of the petition, any attachments to it and, when applicable, a copy of the will, accounting and settlement agreement shall be included with the notice, unless excused by court order. The date set for the hearing shall not be earlier than ~~seven days~~ nor later than ~~14~~ 10 days *and not later than 30 days* after the date of the last publication of notice.

(b) Whenever notice is mailed to a person residing in a foreign country, such notice shall be mailed by air mail.

Sec. 9. K.S.A. 59-2215 is hereby amended to read as follows: 59-2215. When the total assets of the estate of a decedent or conservatee do not exceed the sum of ~~\$5,000~~ \$10,000 in value, the court may remit the court costs or any part thereof to such estate.

Sec. 10. K.S.A. 59-2237 is hereby amended to read as follows: 59-2237. (a) Any person may exhibit a demand against the estate of a decedent by filing a petition for its allowance in the proper district court. Such demand shall be deemed duly exhibited from the date of the filing of the petition. The petition shall contain a statement of all offsets to which the estate is entitled. The person exhibiting the demand shall provide a copy of the demand, as filed, to the personal representative of the estate. The court shall from time to time as it deems advisable, and must at the request of the executor or administrator, or at the request of any creditor having exhibited demand, fix the time and place for the hearing of such demands. Notice of the time and place of the demand hearing shall be given in such manner and to such persons as the court shall direct.

(b) The verification of any demand may be deemed prima facie evidence of its validity unless a written defense thereto is filed. Upon the adjudication of any demand, the court shall enter its judgment allowing or disallowing it. Such judgment shall show the date of adjudication, the amount allowed, the amount disallowed and classification if allowed. Judgments relating to contingent demands shall state the nature of the contingency.

(c) Any demand not exceeding ~~\$5,000~~ \$10,000, other than a demand by the executor or administrator, duly itemized and verified and which is timely filed, may be paid by the executor or administrator without compliance with any of the provisions of this act relating to petition, notice of hearing, allowance by the court or otherwise. If a written defense to the petition of the executor or administrator for a final settlement and accounting is timely filed by any interested party which takes issue with payment of the demand by the executor or administrator, at the hearing on the petition the burden of proof shall be upon the executor or administrator to establish that the demand was due and owing by the estate. If the demand, or any part thereof, is disallowed by the court, the accounting of the executor or administrator shall not be allowed as to the disallowed demand, or part thereof.

Sec. 11. K.S.A. 2022 Supp. 59-2287 is hereby amended to read as follows: 59-2287. (a) The district court, in its discretion, may refuse to grant letters in the following cases:

(1) When the value of real or personal property owned by the decedent is not greater in amount than is allowed by law as exempt property and the allowance to the surviving spouse or minor children under K.S.A. 59-403, and amendments thereto.

(2) When the real and personal estate of the decedent does not exceed ~~\$50,000~~ \$75,000 and the estate is not subject to allowances pursuant to K.S.A. 59-403, and amendments thereto, or such allowances are waived, any heir, devisee, legatee, creditor or other interested person may petition for refusal of letters by giving bond in the sum of not less than the value of the estate. Such bond shall be approved by the district court and conditioned upon the creditor's or heir's assuming the obligation to pay, so far as the assets of the estate will permit, the debts of the decedent in the order of their preference, and to distribute the balance, if any, to the persons entitled thereto under the law, except that real estate sold in accordance with this section shall be deemed to have marketable title as ordered by the court, and no creditor, heir or other person shall be deemed to have an interest after passage of six months following the date of death.

(b) Proof may be allowed by or on behalf of the surviving spouse or minor children before the district court of the value and nature of the estate. If the court is satisfied that no estate will be left after allowing to the surviving spouse or minor children their exempt property and statutory allowances, or that the real and personal estate does not exceed ~~\$50,000~~ \$75,000 when the petition is filed by a creditor or heir, the court may order that no letters of administration shall be issued on the estate, unless, upon the petition of other creditors, heirs or parties interested, the existence of other or further property is shown.

(c) When a petition is filed under this section by a surviving spouse or minor children, notice of the proceeding shall be given pursuant to K.S.A. 59-2222, and amendments thereto.

(d) Whenever it appears to the court that further proceedings in the administration of an estate pursuant to this section are unnecessary, the court shall enter an order terminating the administration of such estate. Such order shall be made without notice, unless the court otherwise orders, and it shall be to the effect that, unless further estate of the decedent be discovered, all further settlements and other proceedings concerning the estate be dispensed with and that the surviving spouse and minor children are relieved of any further obligations with respect to the estate. If further estate of the decedent is discovered and administration is had on it, such administration shall not abrogate or invalidate or otherwise affect any right, title or interest in property transferred or vested pursuant to

this section unless the court, for good cause shown, otherwise determines and orders.

(e) Any will filed pursuant to this section within a period of six months after the death of the testator may be admitted to probate after such six-month period.

Sec. 12. K.S.A. 59-2308 is hereby amended to read as follows: 59-2308. In all sales at public auction the personal representative shall give notice containing a particular description of the real estate to be sold, and ~~by stating such notice shall state~~ the time, terms and place of sale. The notice shall be given by publication once ~~a~~ *per* week for three consecutive weeks in some newspaper, authorized to publish legal notices, of the county ~~in which~~ *where* the real estate is situated. The date set for the sale shall not be earlier than ~~seven days nor later than 14~~ *10 days and not later than 30 days* after the date of the last publication of notice. If the tracts to be sold are contiguous and lie in more than one county, notice may be given and the sale made in either of such counties.

Sec. 13. K.S.A. 2022 Supp. 59-2401 is hereby amended to read as follows: 59-2401. (a) An appeal from a district magistrate judge to a district judge may be taken no later than 30 days from the date of entry of any of the following orders, judgments or decrees in any case involving a decedent's estate:

- (1) An order admitting or refusing to admit a will to probate.
- (2) An order finding or refusing to find that there is a valid consent to a will.
- (3) An order appointing, refusing to appoint, removing or refusing to remove a fiduciary other than a special administrator.
- (4) An order setting apart or refusing to set apart a homestead or other property, or making or refusing to make an allowance of exempt property to the spouse and minor children.
- (5) An order determining, refusing to determine, transferring or refusing to transfer venue.
- (6) An order allowing or disallowing a demand, in whole or in part, when the amount in controversy exceeds ~~\$5,000~~ *\$10,000*.
- (7) An order authorizing, refusing to authorize, confirming or refusing to confirm the sale, lease or mortgage of real estate.
- (8) An order directing or refusing to direct a conveyance or lease of real estate under contract.
- (9) Judgments for waste.
- (10) An order directing or refusing to direct the payment of a legacy or distributive share.
- (11) An order allowing or refusing to allow an account of a fiduciary or any part thereof.
- (12) A judgment or decree of partial or final distribution.

(13) An order compelling or refusing to compel a legatee or distributee to refund.

(14) An order compelling or refusing to compel payments or contributions of property required to satisfy the elective share of a surviving spouse pursuant to K.S.A. 59-6a201 et seq., and amendments thereto.

(15) An order directing or refusing to direct an allowance for the expenses of administration.

(16) An order vacating or refusing to vacate a previous appealable order, judgment, decree or decision.

(17) A decree determining or refusing to determine the heirs, devisees and legatees.

(18) An order adjudging a person in contempt pursuant to K.S.A. 59-6a201 et seq., and amendments thereto.

(19) An order finding or refusing to find that there is a valid settlement agreement.

(20) An order granting or denying final discharge of a fiduciary.

(21) Any other final order, decision or judgment in a proceeding involving a decedent's estate.

(b) An appeal from the district court to an appellate court taken pursuant to this section shall be taken in the manner provided by chapter 60 of the Kansas Statutes Annotated, *and amendments thereto*, for other civil cases.

(c) Pending the determination of an appeal pursuant to ~~section subsection~~ (a) or (b) ~~of this section~~, any order appealed from shall continue in force unless modified by temporary orders entered by the court hearing the appeal. The supersedeas bond provided for in K.S.A. 60-2103, and amendments thereto, shall not stay proceedings under an appeal from the district court to an appellate court.

(d) In an appeal taken pursuant to ~~section subsection~~ (a) or (b) ~~of this section~~, the court from which the appeal is taken may require an appropriate party, other than the state of Kansas, any subdivision thereof, and all cities and counties in this state, to file a bond in such sum and with such sureties as may be fixed and approved by the court to ensure that the appeal will be prosecuted without unnecessary delay and to ensure the payment of all judgments and any sums, damages and costs that may be adjudged against that party.

Sec. 14. K.S.A. 2022 Supp. 59-2402a is hereby amended to read as follows: 59-2402a. (a) When a petition is filed in the district court and a district magistrate judge is assigned to hear such petition, any interested party may request the transfer of the matter to the chief judge for assignment to a district judge if the petition is:

- (1) To admit a will to probate;
- (2) to determine venue or a transfer of venue;
- (3) to allow any claim exceeding ~~\$5,000~~ \$10,000 in value;

- (4) for the sale, lease or mortgage of real estate;
- (5) for conveyance of real estate under contract;
- (6) for payment of a legacy or distributive share;
- (7) for partial or final distribution;
- (8) for an order compelling a legatee or distributee to refund;
- (9) for an order to determine heirs, devisees or legatees; or
- (10) for an order which involves construction of a will or other instrument.

(b) When a request for such transfer is filed less than three days prior to the commencement of the hearing, the court shall assess the costs occasioned by the subpoena and attendance of witnesses against the party seeking the transfer. Such request may be included in any petition, answer or other pleading, or may be filed as a separate petition, and shall include an allegation that a bona fide controversy exists and that the transfer is not sought for the purpose of vexation or delay. Notice of such request shall be given as ordered by the court.

Sec. 15. K.S.A. 2022 Supp. 59-3504 is hereby amended to read as follows: 59-3504. (a) Title to the interest in real estate recorded in transfer-on-death form shall vest in the designated grantee beneficiary or beneficiaries on the death of the record owner.

(b) Grantee beneficiaries of a transfer-on-death deed take the record owner's interest in the real estate at death subject to all conveyances, assignments, contracts, mortgages, liens and security pledges made by the record owner or to which the record owner was subject during the record owner's lifetime including, but not limited to, any executory contract of sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, claims of the state of Kansas for medical assistance, as defined in K.S.A. 39-702, and amendments thereto, pursuant to K.S.A. 39-709, and amendments thereto, and to any interest conveyed by the record owner that is less than all of the record owner's interest in the property.

(c)(1) *Except as provided in subsection (c)(2), if a grantee beneficiary dies prior to the death of the record owner and an alternative grantee beneficiary has not been designated on the deed to succeed to such deceased grantee beneficiary's interest, the transfer, with respect to any such deceased grantee beneficiary, shall lapse.*

(2) *When the transfer-on-death deed was not made contingent on such grantee beneficiary surviving the record owner and a deceased grantee beneficiary leaves at least one then-surviving issue of such beneficiary upon the death of the owner when such interest would otherwise have lapsed under subsection (c)(1), the interest in the real estate shall not lapse and shall vest on such record owner's death in the then-surviving issue of the deceased grantee beneficiary on a per stirpes basis as successor grantee or grantees.*

(d) Any judicial proceeding initiated by an interested party to determine the succession of ownership of real estate of a deceased record owner pursuant to subsection (c) shall be subject to chapter 59 of the Kansas Statutes Annotated, and amendments thereto, to determine descent.

(e) The amendments made to this section by this act shall apply to deeds filed of record on or after July 1, 2023.

Sec. 16. K.S.A. 59-6a202, 59-6a205, 59-1507a, 59-2209, 59-2215, 59-2237 and 59-2308 and K.S.A. 2022 Supp. 59-403, 59-618a, 59-6a215, 59-1507b, 59-2287, 59-2401, 59-2402a and 59-3504 are hereby repealed.

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

Approved April 24, 2023.

CHAPTER 78

SENATE BILL No. 217

AN ACT concerning violations of personal rights; relating to the unlawful use of electronic tracking systems or tracking information; relating to stalking; providing criminal penalties for the conduct of utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns when done as part of an unlawful course of conduct; authorizing orders to prohibit such conduct under the Kansas family law code, the revised Kansas code for care of children, the protection from abuse act and the protection from stalking, sexual assault or human trafficking act; increasing the time of initial orders and possible extensions under the protection from abuse and protection from stalking, sexual assault and human trafficking acts; amending K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 2022 Supp. 21-5427, 23-2224, 23-2707, 60-3107 and 60-31a06 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 21-5427 is hereby amended to read as follows: 21-5427. (a) Stalking is:

(1) Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;

(2) engaging in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family;

(3) after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 2022 Supp. 21-5924, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear; or

(4) intentionally engaging in a course of conduct targeted at a specific child under the age of 14 that would cause a reasonable person in the circumstances of the targeted child, or a reasonable person in the circumstances of an immediate family member of such child, to fear for such child's safety.

(b) Stalking as defined in:

(1) Subsection (a)(1) is a:

(A) Class A person misdemeanor, except as provided in subsection (b) (1)(B); and

(B) severity level 7, person felony upon a second or subsequent conviction;

- (2) subsection (a)(2) is a:
 - (A) Class A person misdemeanor, except as provided in subsection (b)(2)(B); and
 - (B) severity level 5, person felony upon a second or subsequent conviction;
- (3) subsection (a)(3) is a:
 - (A) Severity level 9, person felony, except as provided in subsection (b)(3)(B); and
 - (B) severity level 5, person felony, upon a second or subsequent conviction; and
- (4) subsection (a)(4) is a:
 - (A) Severity level 7, person felony, except as provided in subsection (b)(4)(B); and
 - (B) severity level 4, person felony, upon a second or subsequent conviction.
- (c) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 2022 Supp. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.
- (d) In a criminal proceeding under this section, a person claiming an exemption, exception or exclusion has the burden of going forward with evidence of the claim.
- (e) The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.
- (f) As used in this section:
 - (1) "Course of conduct" means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:
 - (A) Threatening the safety of the targeted person or a member of such person's immediate family;
 - (B) following, approaching or confronting the targeted person or a member of such person's immediate family;
 - (C) appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;

(D) causing damage to the targeted person's residence or property or that of a member of such person's immediate family;

(E) placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;

(F) causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family;

(G) *utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns; and*

(H) any act of communication;

(2) "communication" means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer;

(3) "computer" means a programmable, electronic device capable of accepting and processing data;

(4) "conviction" includes being convicted of a violation of K.S.A. 21-3438, prior to its repeal, this section or a law of another state which prohibits the acts that this section prohibits; and

(5) "immediate family" means:

(A) Father, mother, stepparent, child, stepchild, sibling, spouse or grandparent of the targeted person;

(B) any person residing in the household of the targeted person; or

(C) any person involved in an intimate relationship with the targeted person.

Sec. 2. K.S.A. 2022 Supp. 23-2224 is hereby amended to read as follows: 23-2224. (a) The court, without requiring bond, may make and enforce orders ~~which that~~:

(1) Restrain the parties from molesting or interfering with the privacy or rights of each other, *including, but not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns;*

(2) confirm the existing de facto custody of the child subject to further order of the court, if the court has jurisdiction under K.S.A. 2022 Supp. 23-37,101 et seq., and amendments thereto;

(3) appoint an expert to conduct genetic tests for determination of paternity as provided in K.S.A. 2022 Supp. 23-2212, and amendments thereto;

(4) order the mother and child and alleged father to contact the court appointed expert and provide tissue samples for testing within 30 days after service of the order;

(5) order the payment of temporary child support pursuant to subsection (c); or

(6) the court deems appropriate under the provisions of article 22 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto.

(b) (1) Interlocutory orders authorized by this section that relate to genetic testing may be issued ex parte, if:

(A) The appointed expert is a paternity laboratory accredited by the American association of blood banks; and

(B) the order does not require an adverse party to make advance payment toward the cost of the test.

(2) If such ex parte orders are issued, and if an adverse party requests modification thereof, the court will conduct a hearing within 10 days of such request.

(c) After notice and hearing, the court shall enter an order for child support during the pendency of the action as provided in this subsection. The order shall be entered if the pleadings and the motion for temporary support, if separate from the pleadings, indicate there is only one presumed father and if probable paternity by the presumed father is indicated by clear and convincing evidence. For purposes of this subsection, “clear and convincing evidence” may be presented in any form, including, but not limited to, an uncontested allegation in the pleadings, an uncontested affidavit or an agreement between the parties. For purposes of this subsection, “clear and convincing evidence” means:

(1) The presumed father does not deny paternity;

(2) the mother and the presumed father were married to each other, regardless of whether the marriage was void or voidable, at any time between 300 days before the child’s birth and the child’s birth;

(3) a voluntary acknowledgment of paternity was completed by the mother and the presumed father more than 60 days before the motion was filed and no request to revoke the voluntary acknowledgment has been filed; or

(4) results of genetic tests show the probability of paternity by the presumed father is equal to or greater than 97% and the report was received more than 20 days before the motion was filed, unless written notice of intent to challenge the validity of the report has been timely given.

Sec. 3. K.S.A. 2022 Supp. 23-2707 is hereby amended to read as follows: 23-2707. (a) *Permissible orders*. After the filing of a petition for divorce, annulment or separate maintenance, and during the pendency of the action until the entry of final judgment the judge assigned to hear the action may, without requiring bond, make, modify, vacate and enforce by attachment, orders ~~which~~ *that*:

(1) Jointly restrain the parties with regard to disposition of the property of the parties and provide for the use, occupancy, management and

control of that property, *including, but not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns;*

(2) restrain the parties from molesting or interfering with the privacy or rights of each other, *including, but not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns;*

(3) provide for the legal custody and residency of and parenting time with the minor children and the support, if necessary, of either party and of the minor children during the pendency of the action;

(4) require mediation between the parties on issues, including, but not limited to, child custody, residency, division of property, parenting time and development of a parenting plan;

(5) make provisions, if necessary, for the expenses of the suit, including reasonable attorney's fees, that will insure to either party efficient preparation for the trial of the case;

(6) require an investigation by court service officers into any issue arising in the action; or

(7) require that each parent execute any and all documents, including any releases, necessary so that both parents may obtain information from and to communicate with any health insurance provider regarding the health insurance coverage provided by such health insurance provider to the child. The provisions of this paragraph shall apply irrespective of which parent owns, subscribes or pays for such health insurance coverage.

(b) *Ex parte orders.* Orders authorized by subsections (a)(1), (2), (3), (4) and (7) may be entered after ex parte hearing upon compliance with rules of the supreme court, except that no ex parte order shall have the effect of changing the residency of a minor child from the parent who has had the sole de facto residency of the child to the other parent unless there is sworn testimony to support a showing of extraordinary circumstances. If an interlocutory order is issued ex parte, the court shall hear a motion to vacate or modify the order within 14 days of the date on which a party requests a hearing whether to vacate or modify the order. In the absence, disability, or disqualification of the judge assigned to hear the action, any other judge of the district court may make any order authorized by this section, including vacation or modification or any order issued by the judge assigned to hear the action.

(c) *Support orders.* (1) An order of support obtained pursuant to this section may be enforced by an order of garnishment as provided in this section.

(2) No order of garnishment shall be issued under this section unless: (A) Fourteen or more days have elapsed since the order of support was served upon the party required to pay the support; and (B) the order of

support contained a notice that the order of support may be enforced by garnishment and that the party has a right to request an opportunity for a hearing to contest the issuance of an order of garnishment, if the hearing is requested by motion filed within seven days after service of the order of support upon the party. If a hearing is requested, the court shall hold the hearing within seven days after the motion requesting the hearing is filed with the court or at a later date agreed to by the parties.

(3) No bond shall be required for the issuance of an order of garnishment pursuant to this section. Except as provided in this section, garnishments authorized by this section shall be subject to the procedures and limitations applicable to other orders of garnishment authorized by law.

(4) A party desiring to have the order of garnishment issued shall file an affidavit with the clerk of the district court stating that:

(A) The order of support contained the notice required by this subsection;

(B) fourteen or more days have elapsed since the order of support was served upon the party required to pay the support; and

(C) either no hearing was requested on the issuance of an order of garnishment within the seven days after service of the order of support upon the party required to pay the same or a hearing was requested and held and the court did not prohibit the issuance of an order of garnishment.

(d) If an interlocutory order for legal custody, residency or parenting time is sought, the party seeking such order shall file a proposed temporary parenting plan as provided by K.S.A. 2022 Supp. 23-3211, and amendments thereto, at the time such order is sought. If any motion is filed to modify any such interlocutory orders, or in opposition to a request for issuance of interlocutory orders, that party shall attach to such motion or opposition a proposed alternative parenting plan.

(e) *Service of process.* Service of process served under subsection (a) (1) and (2) shall be by personal service and not by certified mail return receipt requested.

Sec. 4. K.S.A. 38-2243 is hereby amended to read as follows: 38-2243. (a) Upon notice and hearing, the court may issue an order directing who shall have temporary custody and may modify the order during the pendency of the proceedings as will best serve the child's welfare.

(b) A hearing pursuant to this section shall be held within 72 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible, following a child having been taken into protective custody.

(c) Whenever it is determined that a temporary custody hearing is required, the court shall immediately set the time and place for the hearing. Notice of a temporary custody hearing shall be given to all parties and interested parties.

(d) Notice of the temporary custody hearing shall be given at least 24 hours prior to the hearing. The court may continue the hearing to afford the 24 hours prior notice or, with the consent of the party or interested party, proceed with the hearing at the designated time. If an order of temporary custody is entered and the parent or other person having custody of the child has not been notified of the hearing, did not appear or waive appearance and requests a rehearing, the court shall rehear the matter without unnecessary delay.

(e) Oral notice may be used for giving notice of a temporary custody hearing where there is insufficient time to give written notice. Oral notice is completed upon filing a certificate of oral notice.

(f) The court may enter an order of temporary custody after determining there is probable cause to believe that the:

- (1) Child is dangerous to self or to others;
- (2) child is not likely to be available within the jurisdiction of the court for future proceedings;
- (3) health or welfare of the child may be endangered without further care;
- (4) child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto;
- (5) child is experiencing a mental health crisis and is in need of treatment; or
- (6) child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto.

(g)(1) Whenever the court determines the necessity for an order of temporary custody the court may place the child in the temporary custody of:

(A) A parent or other person having custody of the child and may enter a restraining order pursuant to subsection (h);

(B) a person, other than the parent or other person having custody, who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) a youth residential facility;

(D) a shelter facility;

(E) a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto;

(F) after written authorization by a community mental health center, a juvenile crisis intervention center, as described in K.S.A. 65-536, and amendments thereto; or

(G) the secretary, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse.

(2) If the secretary presents the court with a plan to provide services to a child or family which the court finds will assure the safety of the child, the court may only place the child in the temporary custody of the secretary until the court finds the services are in place. The court shall have the authority to require any person or entity agreeing to participate in the plan to perform as set out in the plan. When the child is placed in the temporary custody of the secretary, the secretary shall have the discretionary authority to place the child with a parent or to make other suitable placement for the child. When the child is placed in the temporary custody of the secretary and the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto, the secretary shall have the discretionary authority to place the child in a staff secure facility, notwithstanding any other provision of law. When the child is presently alleged, but not yet adjudicated to be a child in need of care solely pursuant to K.S.A. 38-2202(d)(9) or (d)(10), and amendments thereto, the child may be placed in a secure facility, but the total amount of time that the child may be held in such facility under this section and K.S.A. 38-2242, and amendments thereto, shall not exceed 24 hours, excluding Saturdays, Sundays, legal holidays, and days on which the office of the clerk of the court is not accessible. The order of temporary custody shall remain in effect until modified or rescinded by the court or an adjudication order is entered but not exceeding 60 days, unless good cause is shown and stated on the record.

(h) If the court issues an order of temporary custody, the court may also enter an order restraining any alleged perpetrator of physical, sexual, mental or emotional abuse of the child from residing in the child's home; visiting, contacting, harassing or intimidating the child; or attempting to visit, contact, harass or intimidate the child, other family members or witnesses. Such restraining order shall be served by personal service pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged perpetrator to whom the order is directed.

(i) (1) The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds

probable cause that: (A) (i) The child is likely to sustain harm if not immediately removed from the home;

(ii) allowing the child to remain in home is contrary to the welfare of the child; or

(iii) immediate placement of the child is in the best interest of the child; and

(B) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

(2) Such findings shall be included in any order entered by the court. If the child is placed in the custody of the secretary, upon making the order the court shall provide the secretary with a written copy.

(j) If the court enters an order of temporary custody that provides for placement of the child with a person other than the parent, the court shall make a child support determination pursuant to K.S.A. 38-2277, and amendments thereto.

(k) *For the purposes of this section, "harassing or intimidating" and "harass or intimidate" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.*

Sec. 5. K.S.A. 38-2244 is hereby amended to read as follows: 38-2244.

(a) At any time after filing a petition, but prior to an adjudication, the court may enter an order for continuance and informal supervision without an adjudication if no party objects. Upon granting the continuance, the court shall include in the order any conditions with which the parties and interested parties are expected to comply and provide the parties and interested parties with a copy of the order. The conditions may include appropriate dispositional alternatives authorized by K.S.A. 38-2255, and amendments thereto.

(b) An order for informal supervision may remain in force for a period of up to six months and may be extended, upon hearing, for an additional six-month period for a total of one year. For a child under an order for informal supervision who remains in the custody of such child's parent, such one-year period may be extended if no party objects, upon hearing, for up to an additional one year, with reviews by the court occurring at least every six months.

(c) The court after notice and hearing may revoke or modify the order with respect to a party or interested party upon a showing that the party or interested party, being subject to the order for informal supervision, has substantially failed to comply with the terms of the order, or that modification would be in the best interests of the child. Upon revocation, proceedings shall resume pursuant to this code.

(d) Persons subject to the order for informal supervision who successfully complete the terms and period of supervision shall not again be

proceeded against in any court based solely upon the allegations in the original petition and the proceedings shall be dismissed.

(e) If the court issues an order for informal supervision pursuant to this section, the court may also enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from residing in the child's home, visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. The restraining order shall be served by personal service pursuant to subsection (a) of K.S.A. 38-2237, and amendments thereto, on any alleged perpetrator to whom the order is directed.

(f) Lack of service on a parent shall not preclude an informal supervision under the provisions of this section. If an order of informal supervision is entered which effects change in custody, any parent not served pursuant to K.S.A. 38-2237, and amendments thereto, who has not consented to the informal supervision, may request reconsideration of the order of informal supervision. The court shall hear the request without unnecessary delay. If the informal supervision order effects a change in custody, efforts to accomplish service pursuant to K.S.A. 38-2237, and amendments thereto, shall continue.

(g) *For the purposes of this section, "harassing or intimidating" and "harass or intimidate" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.*

Sec. 6. K.S.A. 38-2255 is hereby amended to read as follows: 38-2255.

(a) *Considerations.* Prior to entering an order of disposition, the court shall give consideration to:

- (1) The child's physical, mental and emotional condition;
 - (2) the child's need for assistance;
 - (3) the manner in which the parent participated in the abuse, neglect or abandonment of the child;
 - (4) any relevant information from the intake and assessment process;
- and
- (5) the evidence received at the dispositional hearing.

(b) *Custody with a parent.* The court may place the child in the custody of either of the child's parents subject to terms and conditions which the court prescribes to assure the proper care and protection of the child, including, but not limited to:

- (1) Supervision of the child and the parent by a court services officer;
- (2) participation by the child and the parent in available programs operated by an appropriate individual or agency; and
- (3) any special treatment or care which the child needs for the child's physical, mental or emotional health and safety.

(c) *Removal of a child from custody of a parent.* The court shall not enter the initial order removing a child from the custody of a parent pursuant to this section unless the court first finds probable cause that: (1) (A) The child is likely to sustain harm if not immediately removed from the home;

(B) allowing the child to remain in home is contrary to the welfare of the child; or

(C) immediate placement of the child is in the best interest of the child; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home or that an emergency exists which threatens the safety to the child.

The court shall not enter an order removing a child from the custody of a parent pursuant to this section based solely on the finding that the parent is homeless.

(d) *Custody of a child removed from the custody of a parent.* If the court has made the findings required by subsection (c), the court shall enter an order awarding custody to: A relative of the child or to a person with whom the child has close emotional ties who shall not be required to be licensed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto; any other suitable person; a shelter facility; a youth residential facility; a staff secure facility, notwithstanding any other provision of law, if the child has been subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 2022 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2022 Supp. 21-6422, and amendments thereto, or the child committed an act which, if committed by an adult, would constitute a violation of K.S.A. 2022 Supp. 21-6419, and amendments thereto; or, if the child is 15 years of age or younger, or 16 or 17 years of age if the child has no identifiable parental or family resources or shows signs of physical, mental, emotional or sexual abuse, to the secretary. Custody awarded under this subsection shall continue until further order of the court.

(1) When custody is awarded to the secretary, the secretary shall consider any placement recommendation by the court and notify the court of the placement or proposed placement of the child within 10 days of the order awarding custody. After providing the parties or interested parties notice and opportunity to be heard, the court may determine whether the secretary's placement or proposed placement is contrary to the welfare or in the best interests of the child. In making that determination the court shall consider the health and safety needs of the child and the resources available to meet the needs of children in the custody of the secretary. If the court determines that the placement or proposed placement is contrary to the welfare or not in the best interests of the child, the court shall notify the secretary, who shall then make an alternative placement.

(2) The custodian designated under this subsection shall notify the court in writing at least 10 days prior to any planned placement with a parent. The written notice shall state the basis for the custodian's belief that placement with a parent is no longer contrary to the welfare or best interest of the child. Upon reviewing the notice, the court may allow the custodian to proceed with the planned placement or may set the date for a hearing to determine if the child shall be allowed to return home. If the court sets a hearing on the matter, the custodian shall not return the child home without written consent of the court.

(3) The court may grant any person reasonable rights to visit the child upon motion of the person and a finding that the visitation rights would be in the best interests of the child.

(4) The court may enter an order restraining any alleged perpetrator of physical, mental or emotional abuse or sexual abuse of the child from: Residing in the child's home; visiting, contacting, harassing or intimidating the child, other family member or witness; or attempting to visit, contact, harass or intimidate the child, other family member or witness. Such restraining order shall be served by personal service pursuant to K.S.A. 38-2237(a), and amendments thereto, on any alleged perpetrator to whom the order is directed.

(5) The court shall provide a copy of any orders entered within 10 days of entering the order to the custodian designated under this subsection.

(e) *Further determinations regarding a child removed from the home.* If custody has been awarded under subsection (d) to a person other than a parent, a permanency plan shall be provided or prepared pursuant to K.S.A. 38-2264, and amendments thereto. If a permanency plan is provided at the dispositional hearing, the court may determine whether reintegration is a viable alternative or, if reintegration is not a viable alternative, whether the child should be placed for adoption or a permanent custodian appointed. In determining whether reintegration is a viable alternative, the court shall consider:

(1) Whether a parent has been found by a court to have committed one of the following crimes or to have violated the law of another state prohibiting such crimes or to have aided and abetted, attempted, conspired or solicited the commission of one of these crimes: (A) Murder in the first degree, K.S.A. 21-3401, prior to its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto; (B) murder in the second degree, K.S.A. 21-3402, prior to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto; (C) capital murder, K.S.A. 21-3439, prior to its repeal, or K.S.A. 2022 Supp. 21-5401, and amendments thereto; (D) voluntary manslaughter, K.S.A. 21-3403, prior to its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto; or (E) a felony battery that resulted in bodily injury;

(2) whether a parent has subjected the child or another child to aggravated circumstances;

(3) whether a parent has previously been found to be an unfit parent in proceedings under this code or in comparable proceedings under the laws of another state or the federal government;

(4) whether the child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which a child in the secretary's custody was removed from the child's home;

(5) whether the parents have failed to work diligently toward reintegration;

(6) whether the secretary has provided the family with services necessary for the safe return of the child to the home; and

(7) whether it is reasonable to expect reintegration to occur within a time frame consistent with the child's developmental needs.

(f) *Proceedings if reintegration is not a viable alternative.* If the court determines that reintegration is not a viable alternative, proceedings to terminate parental rights and permit placement of the child for adoption or appointment of a permanent custodian shall be initiated unless the court finds that compelling reasons have been documented in the case plan why adoption or appointment of a permanent custodian would not be in the best interests of the child. If compelling reasons have not been documented, the county or district attorney shall file a motion within 30 days to terminate parental rights or a motion to appoint a permanent custodian within 30 days and the court shall hold a hearing on the motion within 90 days of its filing. No hearing is required when the parents voluntarily relinquish parental rights or consent to the appointment of a permanent custodian.

(g) *Additional Orders.* In addition to or in lieu of any other order authorized by this section:

(1) The court may order the child and the parents of any child who has been adjudicated a child in need of care to attend counseling sessions as the court directs. The expense of the counseling may be assessed as an expense in the case. No mental health provider shall charge a greater fee for court-ordered counseling than the provider would have charged to the person receiving counseling if the person had requested counseling on the person's own initiative.

(2) If the court has reason to believe that a child is before the court due, in whole or in part, to the use or misuse of alcohol or a violation of K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto, by the child, a parent of the child, or another person responsible for the care of the child, the court may order the child, parent of the child or other person responsible for the care of the child to submit to and com-

plete an alcohol and drug evaluation by a qualified person or agency and comply with any recommendations. If the evaluation is performed by a community-based alcohol and drug safety program certified pursuant to K.S.A. 8-1008, and amendments thereto, the child, parent of the child or other person responsible for the care of the child shall pay a fee not to exceed the fee established by that statute. If the court finds that the child and those legally liable for the child's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary.

(3) If child support has been requested and the parent or parents have a duty to support the child, the court may order one or both parents to pay child support and, when custody is awarded to the secretary, the court shall order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the child. If the parent is not presently ordered to pay support for any child who is subject to the jurisdiction of the court and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 38-2277, and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 2022 Supp. 23-3101 et seq., and amendments thereto, for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 38-2279, and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

(h) For the purposes of this section, "harassing or intimidating" and "harass or intimidate" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.

Sec. 7. K.S.A. 2022 Supp. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court may approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children of the parties, *including, but not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the other person's location, movement or travel patterns.* Such order shall contain a

statement that if such order is violated, such violation may constitute assault as defined in ~~subsection (a) of K.S.A. 2022 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in ~~subsection (a) of K.S.A. 2022 Supp. 21-5413(a)~~, and amendments thereto, domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.

(2) Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household, subject to the limitation of subsection (d). Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2022 Supp. 21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto. The court may grant an order, which shall expire 60 days following the date of issuance, restraining the defendant from cancelling utility service to the residence or household.

(3) Requiring defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties.

(4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.

(5) Ordering a law enforcement officer to evict the defendant from the residence or household.

(6) Ordering support payments by a party for the support of a party's minor child, if the party is the father or mother of the child, or the plaintiff, if the plaintiff is married to the defendant. Such support orders shall remain in effect until modified or dismissed by the court or until expiration and shall be for a fixed period of time not to exceed one year. On the motion of the plaintiff, the court may extend the effect of such order for 12 months.

(7) Awarding costs and attorney fees to either party.

(8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.

(9) Requiring any person against whom an order is issued to seek counseling to aid in the cessation of abuse.

(10) Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any minor children of the parties.

(b) No protection from abuse order shall be entered against the plaintiff unless:

(1) The defendant properly files a written cross or counter petition seeking such a protection order;

(2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in ~~subsection (d) of~~ K.S.A. 60-3104(d), and amendments thereto; and

(3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.

(c) Any order entered under the protection from abuse act shall not be subject to modification on ex parte application or on motion for temporary orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto. Orders previously issued in an action filed pursuant to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be subject to modification under the protection from abuse act only as to those matters subject to modification by the terms of K.S.A. 2022 Supp. 23-3201 through 23-3207 and 23-3218 and article 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, and on sworn testimony to support a showing of good cause. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause. If an action is filed pursuant to K.S.A. 2022 Supp. 23-3201 through 23-3207 or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, during the pendency of a proceeding filed under the protection from abuse act or while an order issued under the protection from abuse act is in effect, the court, on final hearing or on agreement of the parties, may issue final orders authorized by K.S.A. 2022 Supp. 23-3201 through 23-3207 and 23-3218 and articles 22 and 27 of chapter 23 of the Kansas Statutes Annotated, and amendments thereto, that are inconsistent with orders entered under the protection from abuse act. Any inconsistent order entered pursuant to this subsection shall be specific in its terms, reference the protection from abuse order and parts thereof being modified and a copy thereof shall be filed in both actions. The court shall consider whether the actions should be consolidated in accordance with K.S.A. 60-242, and amendments thereto. Any custody or parenting time order, or order relating to the best interests of a child, issued pursuant to the revised Kansas code for care of children or the revised Kansas juvenile justice code, shall be binding and shall take precedence over any such custody or parenting order involving the same child issued under the protection from abuse act, until jurisdiction under the revised Kansas code for care of children or the revised Kansas juvenile justice code is terminated. Any inconsistent custody or parenting order issued in the revised Kansas code for care of children case or the revised

Kansas juvenile justice code case shall be specific in its terms, reference any preexisting protection from abuse order and the custody being modified, and a copy of such order shall be filed in the preexisting protection from abuse case.

(d) If the parties to an action under the protection from abuse act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

(e) Subject to the provisions of subsections (b), (c) and (d), a protective order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time ~~not to exceed one year~~ *less than one year and not more than two years*, except as provided in ~~subsection~~ *subsections* (e)(1) and (e)(2).

(1) Upon motion of the plaintiff, such period may be extended for ~~one an additional year~~ *period of not less than one year and not more than three years*.

(2) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, *the court shall extend a protective order for not less than one additional year and may extend the protective order up to the lifetime of the defendant* if the court determines by a preponderance of the evidence that the defendant has: (A) Violated a valid protection order ~~or (A) has~~; (B) previously violated a valid protection order; or (B) ~~has~~ (C) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household, ~~the court shall extend a protective order for not less than two additional years and may extend the protective order up to the lifetime of the defendant~~. No service fee shall be required for a motion filed pursuant to this subsection.

(f) The court may amend its order or agreement at any time upon motion filed by either party.

(g) No order or agreement under the protection from abuse act shall in any manner affect title to any real property.

(h) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as defined in ~~subsection (a)(1)(C) of K.S.A. 2022 Supp. 21-5808(a)(1)(C)~~, and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such vi-

olation may constitute assault as defined in ~~subsection (a) of K.S.A. 2022 Supp. 21-5412(a)~~, and amendments thereto, battery as defined in ~~subsection (a) of K.S.A. 2022 Supp. 21-5413(a)~~, and amendments thereto, domestic battery as defined in K.S.A. 2022 Supp. 21-5414, and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.

Sec. 8. K.S.A. 2022 Supp. 60-31a06 is hereby amended to read as follows: 60-31a06. (a) The court may issue a protection from stalking, sexual assault or human trafficking order granting any one or more of the following orders:

(1) Restraining the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim. The order shall contain a statement that, if the order is violated, the violation may constitute stalking as defined in K.S.A. 2022 Supp. 21-5427, and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.

(2) Restraining the defendant from abusing, molesting or interfering with the privacy rights of the victim. The order shall contain a statement that, if the order is violated, the violation may constitute stalking as defined in K.S.A. 2022 Supp. 21-5427, and amendments thereto, assault as defined in K.S.A. 2022 Supp. 21-5412(a), and amendments thereto, battery as defined in K.S.A. 2022 Supp. 21-5413(a), and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.

(3) Restraining the defendant from entering upon or in the victim's residence or the immediate vicinity thereof. The order shall contain a statement that, if the order is violated, the violation shall constitute criminal trespass as defined in K.S.A. 2022 Supp. 21-5808(a)(1)(C), and amendments thereto, and violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto.

(4) Restraining the defendant from committing or attempting to commit a sexual assault upon the victim. The order shall contain a statement that, if the order is violated, the violation shall constitute violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto. The order shall also contain a statement that, if the order is violated, the violation may constitute a sex offense under article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and the accused may be prosecuted, convicted of and punished for such sex offense.

(5) Restraining the defendant from following, harassing, telephoning, contacting, recruiting, harboring, transporting, or committing or attempting to commit human trafficking upon the human trafficking victim, or otherwise communicating with the human trafficking victim. The order

shall contain a statement that, if the order is violated, the violation shall constitute violation of a protective order as defined in K.S.A. 2022 Supp. 21-5924, and amendments thereto. The order shall also contain a statement that, if the order is violated, the violation may constitute an offense under chapter 21 of the Kansas Statutes Annotated, and amendments thereto, and the accused may be prosecuted, convicted of and punished for such offense.

(6) Any other order deemed necessary by the court to carry out the provisions of this act.

(b) A protection from stalking, sexual ~~abuse~~ *assault* or human trafficking order shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed ~~one year~~ *less than one year and not more than two years*, except as provided in subsections (c) and (d).

(c) Upon motion of the plaintiff the court may extend the order for an additional ~~year~~ *period of not less than one year and not more than three years*.

(d) Upon verified motion of the plaintiff and after the defendant has been personally served with a copy of the motion and has had an opportunity to present evidence and cross-examine witnesses at a hearing on the motion, the court shall extend a protective order for not less than two additional years and up to a period of time not to exceed the lifetime of the defendant, if the court determines by a preponderance of the evidence that the defendant has:

- (1) Violated a valid protection order;
- (2) previously violated a valid protection order; or
- (3) been convicted of a person felony or any conspiracy, criminal solicitation or attempt thereof, under the laws of Kansas or the laws of any other jurisdiction which are substantially similar to such person felony, committed against the plaintiff or any member of the plaintiff's household.

No service fee shall be required for a motion filed pursuant to this subsection.

(e) The court may amend its order at any time upon motion filed by either party.

(f) The court shall assess costs against the defendant and may award attorney fees to the victim in any case in which the court issues a protection from stalking, sexual assault or human trafficking order pursuant to this act. The court may award attorney fees to the defendant in any case where the court finds that the petition to seek relief pursuant to this act is without merit.

(g) A no contact or restraining provision in a protective order issued pursuant to this section shall not be construed to prevent:

- (1) Contact between the attorneys representing the parties;
 - (2) a party from appearing at a scheduled court or administrative hearing; or
 - (3) a defendant or defendant's attorney from sending the plaintiff copies of any legal pleadings filed in court relating to civil or criminal matters presently relevant to the plaintiff.
- (h) *For the purposes of this section, "harassing" or "interfering with the privacy rights" includes, but is not limited to, utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns.*

Sec. 9. K.S.A. 38-2243, 38-2244 and 38-2255 and K.S.A. 2022 Supp. 21-5427, 23-2224, 23-2707, 60-3107 and 60-31a06 are hereby repealed.

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

Approved April 24, 2023.

CHAPTER 79

SENATE BILL No. 221
(Amended by Chapter 91)

AN ACT concerning elections; relating to election procedures; requiring affidavits of write-in candidacy for certain locally elected offices; providing requirements for counting write-in votes on ballots; clarifying duties and qualifications of certain election officials; redefining certain election crimes; amending K.S.A. 10-120, 15-809, 19-303, 19-804, 19-3419, 19-3422, 19-3439, 25-105, 25-203, 25-208a, 25-211, 25-213, 25-303, 25-305, 25-308, 25-321, 25-432, 25-433, 25-604, 25-901, 25-1115, 25-1122, 25-1214, 25-1903, 25-2005, 25-2008, 25-2018, 25-2021, 25-21a02, 25-2310, 25-2502, 25-2507, 25-26a03, 25-2702, 25-2704, 25-2705, 25-2706, 25-2805, 25-2812, 25-2903, 25-2905, 25-3002, 25-3005, 25-3104, 25-3107, 25-3201, 25-3301, 25-3303, 25-3304, 25-3801, 25-4004, 25-4005, 25-4148d, 25-4322, 25-4612, 25-4703, 25-4709 and 71-1415 and K.S.A. 2022 Supp. 19-3424, 25-3009 and 25-4414 and repealing the existing sections; also repealing K.S.A. 25-222, 25-305b, 25-1709, 25-1710 and 25-2601.

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

Section 1. K.S.A. 25-305 is hereby amended to read as follows: 25-305. (a) Certificates of nomination by convention or caucus for the nomination of candidates for national, state, county and township offices shall be filed with the secretary of state, or the county election officer, not later than 12:00 noon, on the day fixed for the deadline for filing petitions for nomination and declarations of intent to become candidates in accordance with K.S.A. 25-205, and amendments thereto, preceding the national, state, county and township general election, except when such date falls on Saturday, Sunday or a holiday, and then not later than 12:00 noon the following day that is not a Saturday, Sunday or a holiday.

(b) Independent nomination petitions for the nomination of candidates for national, state, county and township offices shall be filed with the secretary of state or the county election officer no later than 12:00 noon on the Monday preceding the date fixed for the holding of primary elections in accordance with K.S.A. 25-203, and amendments thereto, preceding a national, state, county or township general election.

(c) An affidavit of write-in candidacy for the offices of governor and lieutenant governor shall be filed with the secretary of state ~~no~~ not later than 12:00 noon on the ~~2nd~~ *fourth* Monday preceding the general election for those offices.

(d) An affidavit of write-in candidacy for the offices of president and vice-president shall be filed with the secretary of state ~~no~~ not later than 12:00 noon on the ~~2nd~~ *fourth* Monday preceding the general election for those offices.

(e) *An affidavit of write-in candidacy for the offices of United States senator and United States house of representatives shall be filed with the secretary of state not later than 12:00 noon on the fourth Monday*

preceding the election at which the write-in candidate seeks nomination or election.

(f) An affidavit of write-in candidacy for state offices elected on a statewide basis other than offices subject to subsection (c) shall be filed with the secretary of state ~~no~~ not later than 12:00 noon on the ~~second~~ fourth Monday preceding the election at which the write-in candidate seeks nomination or election.

(g) *An affidavit of write-in candidacy for members of the state house of representatives, state senate or members of the state board of education shall be filed with the secretary of state not later than 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.*

(h) *An affidavit of write-in candidacy for district judges, district magistrate judges, district attorneys, any county officer or any city officer of a city of the first class shall be filed with the appropriate county election office not later than 12:00 noon on the fourth Monday preceding the election at which the write-in candidate seeks nomination or election.*

Sec. 2. K.S.A. 25-2903 is hereby amended to read as follows: 25-2903. Except as otherwise provided by law, if a voter desires to vote for a person whose name is not on the ballot, the voter shall write the name of such person in the blank space, if any is provided, under the appropriate title of the office. ~~Failure to make a cross or check mark in the square to the left of such name shall not invalidate that portion of the ballot unless it is impossible to determine the voter's intention.~~ If no blank space is provided for writing in the name of a person whose name is not on the ballot, voters may not vote for any person whose name is not on the ballot.

Sec. 3. K.S.A. 25-3002 is hereby amended to read as follows: 25-3002. (a) The rules prescribed in this section shall apply to:

- (1) The original canvass by election boards.
- (2) Intermediate and final canvasses by county boards of canvassers.
- (3) Final canvass by the state board of canvassers.
- (4) All election contests.
- (5) All other officers canvassing or having a part in the canvass of any election.

(b) *The following shall be* rules for canvassers:

(1) No ballot, or any portion thereof, shall be invalidated by any technical error unless it is impossible to determine the voter's intention. Determination of the voter's intention shall rest in the discretion of the board canvassing in the case of a canvass and in the election court in the case of an election contest.

(2) The occurrences listed in this ~~subpart (2)~~ paragraph shall not invalidate the whole ballot but shall invalidate that portion, and that portion only, in which the occurrence appears. The votes on such portion of the

ballot shall not be counted for any candidate listed or written in such portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this ~~subpart (2)~~ *paragraph* shall apply are:

(A) Whenever a voting mark shall be made in the square at the left of the name of more than one candidate for the same office, except when the ballot instructs that more than one candidate is to be voted; *and*

(B) whenever a voting mark is placed in the square at the left of a space where no candidate is listed.

(3) When a registered voter has cast a provisional ballot intended for a precinct other than the precinct in which the voter resides but located within the same county, the canvassers shall count the votes for those offices or issues ~~which that~~ are identical in both precincts. The canvassers shall not count the votes for those offices or issues ~~which that~~ differ from the offices or issues appearing on the ballot used in the precinct in which the voter resides.

(4) A write-in vote for those candidates for the offices of governor and lieutenant governor shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto, and:

(A) Both candidates' names are written on the ballot; or

(B) only the name of the candidate for governor is written on the ballot.

(5) A write-in vote for those candidates for the offices of president and vice-president shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto, and:

(A) Both candidates' names are written on the ballot; or

(B) only the name of the candidate for president is written on the ballot.

(6) *A write-in vote for candidates for the offices of United States senator and United States house of representatives shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.*

(7) A write-in vote for candidates for state offices elected on a state-wide basis other than offices subject to paragraph (4), *the state house of representatives, state senate, state board of education, district judges, district magistrate judges, district attorneys, any county officer or any city officer of a city of the first class* shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.

~~(7)~~(8) Any advance voting or mail ballot whose envelope containing the voter's written declaration is unsigned, shall be wholly void and no vote thereon shall be counted.

~~(8)~~(9) No ballot cast shall be counted if the voter fails to provide valid identification as defined by K.S.A. 25-2908, and amendments thereto.

(10) *When a registered voter who is unaffiliated with a political party has cast a provisional partisan ballot in a primary election, the canvassers shall count the votes for those offices or issues for which an unaffiliated voter may cast a vote. The canvassers shall not count the votes for those offices for which only a voter who is affiliated with a political party may cast a vote.*

New Sec. 4. (a) The secretary of state shall be responsible for assisting and advising county election officers in conducting elections in compliance with federal and state laws and rules and regulations.

(b) Each county election officer shall be the sole public officer responsible for planning, conducting and coordinating elections held within such officer's county. Such officer shall be responsible for ensuring that all such elections comply with federal and state law and rules and regulations.

New Sec. 5. No person shall serve as a county election officer if such person has been convicted of any crime described in chapter 25 of the Kansas Statutes Annotated, and amendments thereto, or of any crime in any other jurisdiction that is substantially the same as any such crime.

New Sec. 6. (a) Except as provided in subsection (b), no county election officer or any employee or agent thereof shall create, or permit any other person to create, or disclose to any person an image of the hard drive of any electronic or electromechanical voting system, optical scanning equipment or any other voting system that contains a hard drive component without the written consent of the secretary of state.

(b) Each county election officer shall create a backup copy of the hard drive of any electronic or electromechanical voting system, optical scanning equipment or any other voting system that contains a hard drive component. Such backup copies shall be created immediately prior to and immediately after any system updates, repairs or improvements and prior to and after each general election. The county election officer shall maintain such backup copies in a secured location for not less than 22 months.

Sec. 7. K.S.A. 10-120 is hereby amended to read as follows: 10-120.

(a) Whenever an election is required for the issuance of bonds for any purpose by any municipality other than an irrigation district or where a different procedure for giving notice of the election is specifically provided by law, upon compliance with the legal requirements necessary and precedent to the call for the election, the proper municipal officers shall call an election. The election shall be held within ~~45~~ 60 days after compliance with the necessary requirements, or within 90 days, should the longer period include the date of a general election.

(b) Notice of the election shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks. The first publication shall be not less than 21 days prior to the election. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall be published not less than 21 days prior to the election and shall remain on the website until the day after the election.* The notice shall set forth the time and place of holding the election and the purpose for which the bonds are to be issued and shall be signed by the county election officer. The election shall be held at the usual place of holding elections and shall be conducted by the officers or persons provided by law for holding elections in the municipality.

Sec. 8. K.S.A. 15-809 is hereby amended to read as follows: 15-809. (a) Any city of the third class ~~which~~ *that* owns an electric light or waterworks plant, electric transmission line, or water, gas or electric distribution system may sell the same, except that the sale shall not be made until the proposition of whether to sell has been submitted to a vote of the qualified electors of the city. If a majority of the qualified electors who vote in the election vote in favor of the sale, the governing body may dispose of the plant, transmission line or distribution system, according to the proposition voted on at the election. The proposition submitted to the electors shall contain a statement of the proposed sale price and the name of the purchaser.

(b) When the governing body *of such city* decides to put the proposition to a vote, ~~it~~ *the governing body* shall pass an ordinance calling an election to be held within ~~40~~ *60* days after the passage of the ordinance. The mayor shall cause a notice of the election to be published once a week for two consecutive weeks, *with* the first publication to be not less than 21 days preceding the election. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall be published not less than 21 days prior to the election and shall remain on the website until the day after the election.* The notice shall state the purpose of the election, giving the sale price and the name of the purchaser, the date of the election, and the places of voting. The proposed purchaser shall bear all the expenses of the election.

(c) All sales shall be for cash, and the proceeds of the sale shall be applied upon the payment of any outstanding bonds or obligations incurred in the purchase, erection or improvement of the property sold. The excess, if any, shall be paid into the general fund of the city. If the city is unable to purchase the unmatured bonds issued for the purchase, erection or improvement of the property sold, the governing body may invest the money necessary to take up such bonds at maturity in investments

authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or in any municipal bonds of this state, ~~which~~ *and such bonds* shall become due prior to the due date of the bonds issued for the purchase, erection or improvement of the property sold, or in government bonds or federal landbank bonds. The purchase price and proceeding of the sale shall be filed with the state corporation commission.

Sec. 9. K.S.A. 19-303 is hereby amended to read as follows: 19-303. If a vacancy in the office of county clerk should occur by death, resignation, or otherwise, the vacancy shall be filled by appointment of a qualified elector ~~of the county~~ *this state* in the manner ~~herein~~ *provided in this section*. If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and qualifies. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and ~~qualifies~~ *qualifies* at the next general election to serve the remainder of the unexpired term. Nomination and election of such successor shall be in the same manner as nomination and election of a county clerk for a regular term. Appointments hereunder shall be made in the manner provided by law for filling vacancies in the office of member of the house of representatives.

Sec. 10. K.S.A. 19-804 is hereby amended to read as follows: 19-804. Except in those counties operating under the provisions of consolidated law enforcement acts, whenever a vacancy occurs in the office of sheriff of any county, the undersheriff of such county shall in all things execute the office of sheriff until a sheriff shall be appointed by the governor in the manner provided by law for filling vacancies in the office of member of the house of representatives. *Any individual appointed to the office of sheriff shall be a qualified elector of the county on the day such individual is sworn in as sheriff of such county.* If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and ~~qualifies~~ *qualifies*. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and ~~qualifies~~ *qualifies* at the next general election to serve the remainder of the unexpired term. Nomination and election of such successor shall be in the same manner as nomination and election of a sheriff for a regular term. Any default or misfeasance in office of such undersheriff in the meantime, as well as before such vacancy, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed the undersheriff, and also a breach of the condition of the bond executed by such undersheriff to the sheriff by whom the undersheriff was appointed.

Sec. 11. K.S.A. 19-3419 is hereby amended to read as follows: 19-3419. In counties of this state having a population exceeding ~~130,000~~ 125,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto, or as otherwise determined pursuant to K.S.A. 11-202, and amendments thereto, there shall be an office of commissioner of elections, ~~which~~ that shall be administered by an election commissioner. The election commissioner shall be appointed by the secretary of state and shall hold office for a term of four years and until a successor is appointed and qualified. *The secretary, in consultation with the chairperson of the board of county commissioners for the county where an election commissioner is to be appointed, shall form a search committee to identify, interview and recommend to the secretary at least three candidates for the position of election commissioner. Such search committee shall include the chairperson of the board of county commissioners for such county, or a county commissioner for such county as designated by the chairperson, a representative of such county's human resources department and three representatives of the secretary of state's office.* The secretary of state may remove the election commissioner for official misconduct. Upon occurrence of a vacancy in the office of county election commissioner, the secretary of state shall appoint a successor. If the vacancy occurs before the expiration of a term of office, the appointment shall be for the unexpired term. ~~Such election commissioner shall have been a qualified elector and a resident of the county at least two years prior to appointment. Such election commissioner shall have been a resident of the state at least two years prior to appointment.~~ Within 10 days after receiving official notice of the appointment and before entering upon the duties of the office, the election commissioner shall take, subscribe and cause to be filed in the office of the secretary of state an oath of office for the faithful discharge of official duties. *The election commissioner shall be a resident of the county on the day such election commissioner files the oath of office.*

Sec. 12. K.S.A. 19-3422 is hereby amended to read as follows: 19-3422. All the jurisdiction, powers and duties now or hereafter conferred by law upon the county clerks and city, school and township officers relating to the conduct, supervision and control of elections, are hereby withdrawn from ~~said~~ such county clerks and city, school and township officers, in all counties having a population of more than ~~one hundred thousand (100,000)~~ 125,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1 in accordance with K.S.A. 11-201, and amendments thereto, or as otherwise determined pursuant to K.S.A. 11-202, and amendments thereto, and ~~the same~~ such jurisdiction, powers and duties are conferred upon the election commissioner appoint-

ed as provided in K.S.A. 19-3419; ~~and, and amendments thereto.~~ All laws of the state relating to the registration, qualification, challenging and voting of electors at any election in any such county are conferred upon and made applicable to the county election commissioner.

Sec. 13. K.S.A. 2022 Supp. 19-3424 is hereby amended to read as follows: 19-3424. (a) The election commissioner, in the conduct of elections, shall operate under the general supervision of the secretary of state and shall comply with the statutes, rules and regulations and standards and directives that relate to the registration of voters and the conduct of elections. The election commissioner shall:

(1) Establish and fix the boundaries of wards and precincts within the county and in all cities the greater part of the population of which is located in the county. The commissioner shall accept and file nomination ~~petitions and declaration papers~~ *declarations of intention* of candidates and declarations of party affiliation;

(2) give notice by publication in the official county paper; ~~and on the website of the county election office of any county where the election is to be conducted. Such notice shall be published at least 15 days before the holding of~~ *and shall provide* the time of ~~holding~~ the election, ~~and~~ the officers at that time to be chosen; and any other matters to be voted upon;

(3) publish notice giving the proper party designation if required by law, the title of each office, the names and addresses of all persons seeking national and state offices ~~and, as certified to the county election officer by the secretary of state, and of all persons from whom nomination papers~~ *petitions or declarations of intention* have been filed with the election officer, giving the name and address of each, the title to the office, the day of the election, the hours during which the polls will be open and the location of the voting place in each precinct or area, and mail to all persons whose nomination ~~petitions or declaration papers~~ *declarations of intention* are on file with the election officer; a copy of the first issue containing the publication notice;

(4) have charge of the printing of the ballots for all elections to which this act applies held within the county, or held within any city, school district, township or drainage district located in the county. The commissioner shall conduct negotiations for the letting of the contract to print ballots and shall let the contract, with the approval of the board of county commissioners; and

(5) be the clerk of the court for the trial of contested elections except national and state elections, and all intentions to contest any election shall be filed with the election commissioner.

(b) In the administration of the office of the election commissioner, any action taken by the election commissioner shall be subject to the fol-

lowing provisions established by the board of county commissioners applicable to all county departments, agencies and officials:

- (1) Personnel policies and procedures;
- (2) any pay plan, compensation plan and benefits for county employees;
- (3) purchasing policies and procedures;
- (4) budgeting policies and procedures;
- (5) financial policies and procedures; and
- (6) auditing policies and procedures.

(c) Each year, consistent with the county's budgeting procedures, the election commissioner shall submit to the board of county commissioners a requested budget for the office of the election commissioner showing the amount of funding deemed necessary to pay the costs for salaries of the election commissioner, any deputy or assistant election commissioners, and other employees of the office, together with the projected costs and expenses of the office for the next ensuing budget year. The board of county commissioners shall consider the request in the same manner as other departments and agencies of the county and shall approve and adopt a budget for the office of election commissioner within the county budget in an amount determined by the board of county commissioners to be sufficient and adequate for the performance of the duties of the office and the conduct of elections as required by law.

Sec. 14. K.S.A. 19-3439 is hereby amended to read as follows: 19-3439. Notwithstanding the provisions of any statute to the contrary, in any county ~~having a population of more than one hundred and forty thousand (140,000) and less than two hundred and twenty thousand (220,000), where an election commissioner has been appointed all ward and precinct boundary lines shall be established and may be changed from time to time, exclusively by the election commissioner of any such county. No precinct shall be divided by a ward boundary line. Whenever the governing body of any city proposes to adopt an annexation ordinance, at least seven-(7) days prior to such adoption, ~~it~~ the governing body shall notify the county election officer by transmitting a copy of the proposed ordinance to ~~him~~ such officer, together with a statement of the date the proposed ordinance, if passed, will take effect in accordance with the provisions of K.S.A. 12-523, and amendments thereto. If the county election officer is of the opinion that the date such ordinance takes effect will materially interfere with any election, ~~he~~ such officer shall so certify, stating ~~his~~ the reasons therefor, to the governing body of such city and deliver a copy of such certificate to the secretary of state. Whenever any such certificate is filed with the governing body of a city and the secretary of state, the ordinance to which it applies shall not take effect until the day after the election with which it will interfere, and if such an ordinance will materially interfere with the primary ~~state wide~~ statewide election in the~~

opinion of the county election officer, such ordinance shall not take effect until the day after the ~~state-wide~~ *statewide* general election. In the event that the governing body of any city ~~which~~ *that* receives a certificate under this ~~act~~ *section* is aggrieved thereby because the reasons for the opinion of the county election officer are deemed incorrect or insufficient, such governing body may appeal the decision to the district court. In any such case the district court shall advance the appeal for immediate determination as the public interest may require. A copy of any such appeal shall be filed with the secretary of state at the time the appeal is made, and the secretary of state shall file a statement of position with respect to the matter in controversy with the district court.

Sec. 15. K.S.A. 25-105 is hereby amended to read as follows: 25-105. Except as otherwise provided by law, the county election officer shall cause notice of the time of the holding of any general election to be published once at least ~~15~~ 30 days before such election, ~~except in the case of special elections, when 10 days' notice shall be given.~~ Such notice shall be published in a paper or papers having circulation in such county. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall be published not less than 30 days prior to the election and shall remain on the website until the day after the election.* Such notice shall state the date and times of such election, the name of each person nominated for any public office to be voted upon and any propositions to be voted upon. If such election is not held in conjunction with another election for which notice of voting areas and polling places has been published, the notice required by this section shall also include such information. When the names to appear on general election ballots are definitely known and ~~no~~ *not* later than ~~25~~ 50 days prior to any general election, the county election officer shall mail a copy of such notice to each person nominated for any public office, except candidates for president and vice president of the United States, and to judicial retention candidates.

Sec. 16. K.S.A. 25-203 is hereby amended to read as follows: 25-203. ~~(a) Except as otherwise provided in subsection (b),~~ The primary national, state, county and township election shall be held on the first Tuesday of August in even-numbered years for the nomination of all candidates to be voted for at the next following general election.

~~(b) In the year 1992, if new boundary lines are defined and districts established in the manner prescribed by law for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas, and member of the state board of education, on or after June 13, 1992, the primary national, state, county and township election shall be held on August 25, 1992, for the nomination of all candidates to be voted for at the next following general election.~~

Sec. 17. K.S.A. 25-208a is hereby amended to read as follows: 25-208a. (a) Within 10 days, Saturdays, Sundays and holidays not included, from the date of the filing of nomination petitions or a declaration of intention to become a candidate for United States senator or representative or for state office, the secretary of state shall determine the validity of such petitions or declaration.

The secretary of state shall send a copy of all petitions to the county election officer of the county of the district in which the nomination petition was passed. The county election officer shall check the petitions only for valid signatures and certify the results of such check to the secretary of state within 10 days, including Saturdays, Sundays and holidays, of the date the petitions were filed with the secretary. The secretary of state upon receipt of the validated petition from the county election officer shall notify the candidate of the validity of the petition.

(b) Within three days from the date of the filing of nomination petitions or a declaration of intention to become a candidate for county or township office or for precinct committeeman or committeewoman, the county election officer shall determine the validity of such petitions or declaration. *The county election officer shall verify the party affiliation of the candidate at the time a declaration of intention is filed to become a candidate for precinct committeeman or committeewoman.*

(c) If any nomination petitions or declarations are found to be invalid, the secretary of state or the county election officer, as the case may be, shall notify the candidate on whose behalf the petitions or declaration was filed that such nomination petitions or declaration have been found to be invalid and the reason for the finding. Such candidate may make objection to the finding of invalidity by the secretary of state or the county election officer in accordance with K.S.A. 25-308, and amendments thereto.

Sec. 18. K.S.A. 25-211 is hereby amended to read as follows: 25-211. The county election officer shall, at least ~~two (2) weeks before~~ *50 days prior* to the primary election, mail to each person whose name is to appear on the official ballot in such county, ~~to the address given in such papers, a copy of the first issue of the county paper containing the names and addresses and to the chairpersons of the political parties of such county~~ *a list of those candidates whose names will be printed on the national, state, county and township primary election ballots, including the office, the candidate's name, the city where the candidate resides and the candidate's political party, as such information will appear on the primary election ballot. The chairman* chairperson of each political party ~~shall or any candidate may,~~ on or before the ~~eleventh~~ 45th day preceding such primary election, suggest to the county election officer any changes ~~that he may consider should be made in~~ to the ballot applicable to his party, and, if upon examination the county election officer shall find any error

or omission in ~~said~~ *such* ballot, ~~he~~ *the county election officer* shall correct the ballot and cause ~~the same~~ *such ballot* to be printed and distributed as required by law in the case of ballots for the national, state, county and township general election. The number of ballots of each party to be furnished to each precinct shall be adequate in the opinion of the county election officer.

Sec. 19. K.S.A. 25-213 is hereby amended to read as follows: 25-213.

(a) At all national and state primary elections, the national and state offices as specified for each in this section shall be printed upon the official primary election ballot for national and state offices and the county and township offices as specified for each in this section shall be printed upon the official primary election ballot for county and township offices.

(b) The official primary election ballots shall have the following heading:

OFFICIAL PRIMARY ELECTION BALLOT

_____ Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square at the left of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space, if any is provided, and make a cross or check mark in the square to the left.

The words national and state or the words county and township shall appear on the line preceding the part of the form shown above.

The form shown shall be followed by the names of the persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections, and for the national and state offices in the following order: United States senator, United States representative from _____ district, governor and lieutenant governor, secretary of state, attorney general, state treasurer, commissioner of insurance, senator _____ district, representative _____ district, district judge _____ district, district magistrate judge _____ district, district attorney _____ judicial district, and member state board of education _____ district. For county and township offices the form shall be followed by the names of persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections in the following order: Commissioner _____ district, county clerk, treasurer, register of deeds, county attorney, sheriff, township trustee, township treasurer, township clerk. When any office is not to be elected, it shall be omitted from the ballot. Other offices to be elected but not listed, shall be inserted in the proper places. For each office there shall be a statement of the number to vote for.

To the left of each name there shall be printed a square. Official primary election ballots may be printed in one or more columns. The names certified by the secretary of state or county election officer shall be print-

ed on official primary election ballots and no others. In case there are no nomination petitions or declarations on file for any particular office, the title to the office shall be printed on the ballot followed by a blank line with a square, and such title, followed by a blank line, may be printed in the list of candidates published in the official paper. No blank line shall be printed following any office where there are nomination petitions or declarations on file for the office except following the offices of precinct committeeman and precinct committeewoman.

(c) Except as otherwise provided in this section, no person's name shall be printed more than once on either the official primary election ballot for national and state offices or the official primary election ballot for county and township offices. No name that is printed on the official primary election ballot as a candidate of a political party shall be printed or written in as a candidate for any office on the official primary election ballot of any other political party. If a person is a candidate for the unexpired term for an office, the person's name may be printed on the same ballot as a candidate for the next regular term for such office. The name of any candidate on the ballot may be printed on the same ballot as such candidate and also as a candidate for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for national and state offices shall be printed or written in elsewhere on the ballot or on the official primary election ballot for county and township offices except for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for county and township offices shall be printed or written in on the official primary election ballot for national and state offices or elsewhere on the county and township ballot except for precinct committeeman or committeewoman.

(d) No person shall be elected to the office of precinct committeeman or precinct committeewoman where no nomination petitions or declarations have been filed, unless the person receives at least five write-in votes, *resides in such precinct, is a qualified elector and is a member of such party as shown by the party affiliation list maintained in the county election office*. As a result of a primary election, no person shall receive the nomination and no person's name shall be printed on the official general election ballot when no nomination petitions or declarations were filed, unless the person receives votes equal in number to not less than 5% of the total of the current voter registration designated in the state, county or district in which the office is sought, as compiled by the office of the secretary of state, except that a candidate for township office may receive the nomination and have such person's name printed on the ballot where no nomination petitions or declarations have been filed if such candidate receives three or more write-in votes. No such person shall be required to obtain more than 5,000 votes.

(e) The secretary of state by rules and regulations shall develop the official ballot for municipal elections in odd-numbered year elections.

(f) A person who won the primary election as a result of the person's name being written in on the primary ballot shall have such person's name printed on the official general election ballot for national, state, county, township or municipal office, unless the person notifies, in writing, the secretary of state for national or state office or the county election office for all other offices within 10 days following the canvass of the primary election that the person does not want such person's name on the official general election ballot.

Sec. 20. K.S.A. 25-303 is hereby amended to read as follows: 25-303. (a) This section shall not apply to city and school elections, nor to election of other officers provided by law to be elected in ~~April~~ *odd-numbered years*.

(b) All nominations other than party nominations shall be independent nominations. No person who has declared and retains a party affiliation in accordance with K.S.A. 25-3301, and amendments thereto, shall be eligible to accept an independent nomination for any office.

(c) Independent nominations of candidates for any office to be filled by the voters of the state at large may be made by nomination petitions signed by not less than 5,000 qualified voters for each candidate and in the case of governor and lieutenant governor for each pair of such candidates.

~~(e)~~(d) Independent nominations of candidates for offices to be filled by the voters of a county, district or other division less than a state may be made by nomination petitions signed by voters equal in number to not less than 4% of the current total of qualified voters of such county, district or other division as compiled by the office of the secretary of state in the case of state offices and as compiled in the office of the county election officer and certified to the secretary of state in accordance with K.S.A. 25-2311, and amendments thereto, in the case of local offices, and in no case to be signed by less than 25 nor more than 5,000 qualified voters of such county, district or division, for each candidate.

~~(d)~~(e) Independent nominations of candidates for offices to be filled by the voters of a township may be made by nomination papers signed by not less than 5% of the current total of qualified voters of such township, computed as above provided, for each candidate, and in no case to be signed by less than 10 such voters of such township for each candidate.

(e)(f) The signatures to such nomination petitions need not all be appended to one paper, but each registered voter signing an independent certificate of nomination shall add to the signature such petitioner's place of residence and post office address. All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit of the candidate or a petition circulator shall be appended to each petition and shall contain, at the end of each

set of documents carried by each circulator or candidate, a verification, signed by the circulator or candidate, to the effect that such circulator or candidate personally witnessed the signing of the petition by each person whose name appears thereon.

~~(f)~~(g) No such nomination ~~paper~~ *petition* shall contain the name of a candidate for governor without in the same such ~~paper~~ *petition* containing the name of a candidate for lieutenant governor, and if it does it shall be void.

~~(g)~~(h) No person shall join in nominating more than one person for the same office, and if this is done, the name of such petitioner shall not be counted on any certificate.

(i) *Within 20 days after receipt of an independent nominating petition, but not later than the date of the meeting of the state board of canvassers in accordance with K.S.A. 25-3205, and amendments thereto, the secretary of state shall determine the validity of such independent nominating petition. If any independent nomination petitions are found to be invalid, the secretary of state shall notify the candidate on whose behalf the independent nomination petitions were filed that such nomination petitions have been found to be invalid and the reason for such finding of invalidity. Such candidate may make objection to the finding of invalidity by the secretary of state in accordance with K.S.A. 25-308, and amendments thereto.*

Sec. 21. K.S.A. 25-308 is hereby amended to read as follows: 25-308. (a) Any certificate of nomination, nomination petitions or declaration of intention to become a candidate, filed or issued in apparent conformity with law, shall be deemed to be valid unless:

(1) An objection ~~thereto~~ is made in writing within three days from the date the certificate, petitions or declaration is filed with or issued by the proper officers; or

(2) in the case of certificates of nomination, nomination petitions and declarations of intention to become a candidate, the secretary of state or the county election officer finds them to be invalid pursuant to K.S.A. 25-208a, and amendments thereto.

(b) If the secretary of state or the county election officer finds any certificates of nomination, nomination petitions or declaration of intention to become a candidate to be invalid pursuant to K.S.A. 25-208a, and amendments thereto, the candidate on whose behalf the certificates, petitions or declaration was filed may make objection to such finding in writing within three days of receipt by the candidate of notice of such finding.

(c) In the case of nominations of national and state officers, objections shall be filed with the secretary of state and shall be considered by the lieutenant governor, secretary of state, and attorney general, *or such officer's designee*, and a decision of a majority of these officers, *or such*

officers' designees, shall be final. In the case of nominations for county, township, city and school officers, objections shall be filed with the county election officer and shall be considered by the county election officer, county attorney or district attorney and an elected official of the county whose position is not involved in the controversy, who shall be designated by the county election officer. The decision of a majority of these officers shall be final.

(d) In any case where objection is made, notice shall be given immediately, by the officer with whom the objections are filed, to the other officers required to determine the matter and to the candidates affected by such objection, addressed in the case of candidates to their places of residence as given in the nomination petitions, declaration of intention to become a candidate or certificate of nomination. The notice shall state the time when the objection will be considered. Such time shall not be more than five days following the giving of such notice in the case of nomination of a national or state officer and not be more than three days following the giving of such notice in the case of nomination of a county, township, city or school officer, and the place where such objections will be considered.

(e) The causes for objection under this section as to any office may be any of those causes listed in K.S.A. 25-1436, and amendments thereto. The officers determining any objections under this section may assess any costs arising from such determination to either the objector or objectee in accordance with the determination made. Such costs shall be paid to the secretary of state or the county election officer, as the case may be, and deposited in the treasury of the state or county to the credit of its general fund. If such costs are not paid within 10 days after being fixed, the secretary of state or county election officer shall make a certificate of the facts and file it with the clerk of the district court in the county where the person resides who must pay such costs. Such clerk of the district court shall collect such costs as in cases of collection of court costs, and when collected such costs shall be disposed of as are court costs in such district court.

(f) All mandamus proceedings to compel an officer to certify and place upon the ballot any name or names, and all injunction proceedings to restrain an officer from certifying and placing upon the ballot any name or names, must be commenced not less than ~~45~~ 60 days before the election.

Sec. 22. K.S.A. 25-321 is hereby amended to read as follows: 25-321. A person appointed to the office of state representative under the provisions of this act may hold the office for the remainder of the term. Any person appointed to the office of senator under the provisions of this act may hold the office: (a) If the vacancy occurs prior to May 1 of the second year of the term, until the next general election, when a senator shall be

elected to fill the term; or (b) if such vacancy occurs ~~after~~ on or after May 1 of the second year of the term, for the remainder of the term. In cases where the appointment of a senator is until the next general election, nomination and election of such successor shall be in the same manner as nomination and election of a senator for a regular term.

Sec. 23. K.S.A. 25-432 is hereby amended to read as follows: 25-432. An election shall not be conducted under this act unless:

(a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision;

(b) the secretary of state approves a written plan for conduct of the election, ~~which shall include~~ *including, but not limited to*, a written timetable for the conduct of the election, submitted by the county election officer;

(c) the election is nonpartisan;

(d) the election is not one at which any candidate is elected, retained or recalled;

(e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots, except this restriction shall not apply to mail ballot elections held under K.S.A. 79-2925c, and amendments thereto; and

(f) the election is a question submitted election at which all of the qualified electors of one of the following subdivisions of government are the only electors eligible to vote:

(1) Counties;

(2) cities;

(3) school districts, except in an election held pursuant to K.S.A. 72-635 et seq., and amendments thereto;

(4) townships;

(5) benefit districts organized under K.S.A. 31-301, and amendments thereto;

(6) cemetery districts organized under K.S.A. 15-1013 or 17-1330, and amendments thereto;

~~(7) combined sewer districts organized under K.S.A. 19-27,169, and amendments thereto;~~

~~(8)~~ community college districts organized under K.S.A. 71-1101 et seq., and amendments thereto;

~~(9)~~(8) fire districts organized under K.S.A. 19-3601 or 80-1512, and amendments thereto;

~~(10)~~(9) hospital districts;

~~(11)~~(10) improvement districts organized under K.S.A. 19-2753, and amendments thereto;

~~(12)~~(11) Johnson county park and recreation district organized under K.S.A. 19-2859, and amendments thereto;

~~(13)~~ sewage disposal districts organized under K.S.A. 19-27,140, and amendments thereto;

~~(14)~~(12) water districts organized under K.S.A. 19-3501 et seq., and amendments thereto;

~~(15)~~(13) transportation development districts created pursuant to K.S.A. 2022 Supp. 12-17,140 et seq., and amendments thereto; or

~~(16)~~(14) any tract of land annexed pursuant to K.S.A. 12-521, and amendments thereto.

Sec. 24. K.S.A. 25-433 is hereby amended to read as follows: 25-433.

(a) The county election officer shall mail all official ballots with a return identification envelope and instructions sufficient to describe the voting process to each elector entitled to vote in the election on one date not sooner than the 20th day before the date of the election and not later than the 10th day before the date of the election. Ballots mailed by the county election officer shall be addressed to the address of each elector appearing in the registration records, and placed in an envelope ~~which~~ *that* is prominently marked “Do Not Forward.” Ballots shall not be mailed to any inactive voter who, based on information provided by the postal service, appears to have moved to a residence address outside the county in which the voter is currently registered and who has been mailed a confirmation notice as described in ~~subparagraph (4) of subsection (e) of K.S.A. 25-2316c(e)(4), and amendments thereto, or because a “Forwarding Order Expired” or “Moved — No Forwarding Address” notice was received from the post office. Any inactive voter who believes such voter is entitled to vote in the election may request a replacement ballot as provided for in subsection (d) of this section.~~

(b) Upon receipt of the ballot the elector shall mark it, sign the return identification envelope supplied with the ballot and comply with the instructions provided with the ballot. The elector may return the marked ballot to the county election officer by United States mail, if it is received by the county election officer by the date of the election, or personally deliver the ballot to the office of the county election officer before noon on the date of the election. The ballot shall be returned in the return identification envelope. The county election officer shall provide for the payment of postage for the return of ballot envelopes.

(c) The return identification envelope shall contain the following form:

I declare under penalty of election perjury, a felony, that I am a resident and a qualified voter for this election as shown on voter registration records and that I have voted the enclosed ballot and am returning it in compliance with Kansas law, and amendments thereto, and have not and will not vote more than one ballot in this election.

I also understand that failure to complete the information below will invalidate my ballot.

Signature

Residence Address

(d) If the ballot is destroyed, spoiled, lost or not received by the elector, the elector may obtain a replacement ballot from the county election officer as provided in this subsection. An elector seeking a replacement ballot shall sign a statement verified on oath or affirmation, on a form prescribed by the secretary of state, that the ballot was destroyed, spoiled, lost or not received. The applicant shall deliver the statement to the county election officer before noon on the date of the election. The applicant may mail the statement to the county election officer, except a county election officer shall not transmit a ballot by mail under this subsection unless the application is received prior to the close of business on the second day prior to the election. When an application is timely received under this subsection, the county election officer shall deliver the ballot to the voter if the voter is present in the office of the county election officer, or promptly transmit the ballot by mail to the voter at the address contained in the application, except when prohibited in this subsection. The county election officer shall keep a record of each replacement ballot provided under this subsection.

(e) A ballot shall be counted only if: (1) It is returned in the return identification envelope; (2) the envelope is signed by the elector to whom the ballot is issued; and (3) the signature has been verified as provided in this subsection. The county election officer shall verify the signature of each elector on the return identification envelope with the signature on the elector's registration records and may commence verification at any time prior to the canvass of the election. *The county election office shall attempt to contact each person who submits a mail ballot if there is no signature or the signature does not match with the signature on file and allow such elector the opportunity to correct the deficiency before the commencement of the county canvass. Verification of the voter's signature shall not be required if the voter has a disability preventing the voter from signing the ballot or preventing the voter from having a signature consistent with such voter's registration form. Signature verification may occur by electronic device or human inspection.* If the county election officer determines that an elector to whom a replacement ballot has been issued under subsection (d) has voted more than once, the county election officer shall not count any ballot cast by that elector.

(f) The county election officer shall supervise the procedures for the handling and canvassing of ballots to insure the safety and confidentiality of all ballots properly cast.

(g) The names of voters whose mail ballot envelopes are returned to the county election officer as “undeliverable” shall be subject to removal from the voter registration book and party affiliation list in the manner provided in ~~subsection (d) of K.S.A. 25-2316c(d)~~, and amendments thereto.

Sec. 25. K.S.A. 25-604 is hereby amended to read as follows: 25-604.

(a) ~~Except as otherwise provided in subsection (b),~~ The county election officers shall have charge of the printing of the ballots for all elections, primary, special and general.

(b) ~~The secretary of state may provide for the printing of all or any portion of the ballots for a presidential preference primary election. The secretary of state shall determine, with the advice of the director of printing, the most efficient manner in which to print ballots for a presidential preference primary election for any county in the state of Kansas.~~

(e) ~~Nothing in this subsection shall apply to the printing of ballot labels for use on voting machines.~~

(c) The ballots shall be printed on paper of sufficient strength as not to be punctured by ordinary pencil marking. Ballots shall be put in the possession of the county election officer at least five days before the election, accompanied by sufficient number, not to exceed 50 for each precinct or area, of exact copies of such ballots, printed on paper of any color, except white, as authorized by rules and regulations adopted by the secretary of state, for the inspection of candidates and ~~their~~ *agents of the candidates* and for distribution through each of the party organizations. If any mistakes are discovered they shall be corrected without delay. County election officers may also obtain and distribute ballots or lists of candidates and other questions to be voted upon on paper of any color authorized by rules and regulations adopted by the secretary of state stamped “SAMPLE BALLOT” in large letters, and these ballots, lists of candidates and other questions to be voted upon shall be used for educational purposes and the distribution shall be for such purpose. The county election officers shall cause to be delivered to the supervising judges, not less than 12 hours before the time fixed by law for the opening of the polls, a number of properly printed ballots fully sufficient to meet the demands and needs of all the voters. Such ballots shall be put in separate sealed packages of 25, 50 or 100 ballots each, with marks on the outside clearly designating the voting place for which they are intended and the number of ballots enclosed. The county election officer shall retain at the county election office an additional supply of ballots to meet any emergency need for such ballots that might arise from loss or destruction of ballots, enlarged vote or any other legitimate cause. The county election officer may make a charge for all sample ballots, lists and materials distributed in an amount not to exceed the actual cost of the materials, printing and the distribution thereof.

Sec. 26. K.S.A. 25-901 is hereby amended to read as follows: 25-901. (a) Every committee, club, organization, municipality or association designed to promote or engaged in promoting the success or defeat of any party or the election or defeat of any candidate or candidates for any city of the second and third class, unified school district, except unified school districts having 35,000 or more ~~pupils~~ *students* regularly enrolled in the preceding school year, any community college or township office, or the adoption or defeat of any question submitted at any city, unified school district, community college, township or county election, shall have a treasurer, and shall cause to be kept a detailed account of all moneys or property or other thing of value received by it, and of the manner in which the same shall be expended; ~~and. Such committee, club, organization, municipality or association~~ shall file annually with the county election officer of the county in which such committee, club, organization, *municipality* or association has its headquarters a statement of all its receipts and expenditures, showing in detail from whom such moneys or property or other thing of value were received, to whom such moneys or property or other thing of value were paid, for what specific purposes each payment was made, and the exact nature of the service rendered in consideration thereof.

(b) ~~The annual statement herein required shall be filed on or before December 31, such statement and shall cover the period ending on December 1 immediately preceding. The accounts of the state committee of each political party shall be audited annually by a certified public accountant and a copy of the audit filed with the secretary of state.~~

(c) This section and K.S.A. 25-905, and amendments thereto, shall not be construed to require any committee, club, organization, municipality or association ~~which that~~ is subject to the campaign finance act (~~, K.S.A. 25-4101 et seq.~~), *and amendments thereto*, to file reports required by this act.

Sec. 27. K.S.A. 25-1115 is hereby amended to read as follows: 25-1115. (a) “General election” means the elections held on the Tuesday following the first Monday in November of both even-numbered and odd-numbered years, and in the case of ~~special elections~~ *an election* of any officers to fill vacancies *held on a date other than the Tuesday following the first Monday in November*, the election at which any such officer is finally elected.

(b) “Primary election” means the elections held on the first Tuesday in August of both even-numbered and odd-numbered years; and any other preliminary election *held on a date other than the first Tuesday in August* at which part of the candidates for ~~special~~ election to any national, state, county, city, school or other municipal office are eliminated by the process of the election but at which no officer is finally elected.

(c) “Special election” means any election that is not a general or primary election, including, but not limited to, any mail ballot election conducted pursuant to K.S.A. 25-431 et seq., and amendments thereto. A special election shall not be held within 45 days of a general or primary election but may be held on the same day as a general or primary election.

Sec. 28. K.S.A. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where ~~the~~ *such* person is a resident, or where ~~the~~ *such* person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

(b) If the registered voter is applying for an advance voting ballot to be transmitted in person, the voter shall provide identification pursuant to K.S.A. 25-2908, and amendments thereto.

(c) If the registered voter is applying for an advance voting ballot to be transmitted by mail, the voter shall provide with the application for an advance voting ballot the voter’s current and valid Kansas driver’s license number, nondriver’s identification card number or a photocopy of any other identification provided by K.S.A. 25-2908, and amendments thereto.

(d) A voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto, if:

(1) The voter is unable or refuses to provide current and valid identification; or

(2) the name and address of the voter provided on the application for an advance voting ballot do not match the voter’s name and address on the registration book. The voter shall provide a valid form of identification as defined in K.S.A. 25-2908, and amendments thereto, to the county election officer in person or provide a copy by mail or electronic means before the meeting of the county board of canvassers. At the meeting of the county board of canvassers the county election officer shall present copies of identification received from provisional voters and the corresponding provisional ballots. If the county board of canvassers determines that a voter’s identification is valid and the provisional ballot was properly cast, the ballot shall be counted.

(e) No county election officer shall provide an advance voting ballot to a person who is requesting an advance voting ballot to be transmitted by mail unless:

(1) The county election official verifies that the signature of the person matches that on file in the county voter registration records, except that verification of the voter’s signature shall not be required if a voter has a disability preventing the voter from signing. Signature verification may occur by electronic device or by human inspection. In the event that

the signature of a person who is requesting an advance voting ballot does not match that on file, the county election officer shall attempt to contact the person and shall offer the person another opportunity to provide the person's signature for the purposes of verifying the person's identity. If the county election officer is unable to reach the person, the county election officer may transmit a provisional ballot, however, such provisional ballot may not be counted unless a signature is included therewith that can be verified; and

(2) the person provides such person's full Kansas driver's license number, Kansas nondriver's identification card number issued by the division of vehicles, or submits such person's application for an advance voting ballot and a copy of identification provided by K.S.A. 25-2908, and amendments thereto, to the county election officer for verification. If a person applies for an advance voting ballot to be transmitted by mail but fails to provide identification pursuant to this subsection or the identification of the person cannot be verified by the county election officer, the county election officer shall provide information to the person regarding the voter rights provisions of subsection (d) and shall provide the person an opportunity to provide identification pursuant to this subsection. For the purposes of this act, Kansas state offices and offices of any subdivision of the state will allow any person seeking to vote by an advance voting ballot the use of a photocopying device to make one photocopy of an identification document at no cost.

(f) Applications for advance voting ballots to be transmitted to the voter by mail shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in both even-numbered and odd-numbered years, between April 1 of such year and the Tuesday of the week preceding such primary election.

(2) For the general election occurring on the Tuesday following the first Monday in November in both even-numbered and odd-numbered years, between 90 days prior to such election and the Tuesday of the week preceding such general election.

(3) For question submitted elections occurring on the date of a primary or general election, the same as is provided for ballots for election of officers at such election.

(4) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the Tuesday of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the final date for mailing of advance voting ballots shall be one week before such election.

(5) For any special election of officers, at such time as is specified by the secretary of state.

The county election officer of any county may receive applications prior to the time specified in this subsection and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(g) Unless an earlier date is designated by the county election office, applications for advance voting ballots transmitted to the voter in person ~~in the office of the county election officer~~ shall be filed on the Tuesday next preceding the election and on each subsequent business day until no later than 12 noon on the day preceding such election. If the county election officer so provides, applications for advance voting ballots transmitted to the voter in person in the office of the county election officer also may be filed on the Saturday preceding the election. Upon receipt of any such properly executed application, the county election officer shall deliver to the voter such ballots and instructions as are provided for in this act.

An application for an advance voting ballot filed by a voter who has a temporary illness or disability or who is not proficient in reading the English language or by a person rendering assistance to such voter may be filed during the regular advance ballot application periods until the close of the polls on election day.

The county election officer may designate places other than the central county election office as satellite advance voting sites. At any satellite advance voting site, a registered voter may obtain an application for advance voting ballots. Ballots and instructions shall be delivered to the voter in the same manner and subject to the same limitations as otherwise provided by this subsection.

(h) Any person having a permanent disability or an illness that has been diagnosed as a permanent illness is hereby authorized to make an application for permanent advance voting status. Applications for permanent advance voting status shall be in the form and contain such information as is required for application for advance voting ballots and also shall contain information that establishes the voter's right to permanent advance voting status.

(i) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, together with their correct post office address and the precinct, ward, township or voting area in which the persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Names and addresses shall remain so listed until the day of such election. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent advance voting status. All such lists shall be available for inspection upon request in compliance with this subsection

by any registered voter during regular business hours. The county election officer upon receipt of the applications shall enter upon a record kept by such officer the name and address of each applicant, which record shall conform to the list above required. Before inspection of any advance voting ballot application list, the person desiring to make the inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by the officer stating the person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such numbers shall not be made public.

(j) If a person on the permanent advance voting list fails to vote in four consecutive general elections ~~held on the Tuesday succeeding the first Monday in November of each even-numbered and odd-numbered year~~, the county election officer may mail a notice to such voter. The notice shall inform the voter that the voter's name will be removed from the permanent advance voting list unless the voter renews the application for permanent advance voting status within 30 days after the notice is mailed. If the voter fails to renew such application, the county election officer shall remove the voter's name from the permanent advance voting list. Failure to renew the application for permanent advance voting status shall not result in removal of the voter's name from the voter registration list.

(k) (1) Any person who solicits by mail a registered voter to file an application for an advance voting ballot and includes an application for an advance voting ballot in such mailing shall include on the exterior of such mailing, and on each page contained therein, except the application, a clear and conspicuous label in 14-point font or larger that includes:

(A) The name of the individual or organization that caused such solicitation to be mailed;

(B) if an organization, the name of the president, chief executive officer or executive director of such organization;

(C) the address of such individual or organization; and

(D) the following statement: "Disclosure: This is not a government mailing. It is from a private individual or organization."

(2) The application for an advance voting ballot included in such mailing shall be the official application for advance ballot by mail provided by the secretary of state. No portion of such application shall be completed prior to mailing such application to the registered voter.

(3) An application for an advance voting ballot shall include an envelope addressed to the appropriate county election office for the mailing

of such application. In no case shall the person who mails the application to the voter direct that the completed application be returned to such person.

(4) The provisions of this subsection shall not apply to:

(A) The secretary of state or any election official or county election office; or

(B) the official protection and advocacy for voting access agency for this state as designated pursuant to the federal help America vote act of 2002, public law 107-252, or any other entity required to provide information concerning elections and voting procedures by federal law.

(5) A violation of this subsection is a class C nonperson misdemeanor.

(1) (1) No person shall mail or cause to be mailed an application for an advance voting ballot, unless such person is a resident of this state or is otherwise domiciled in this state.

(2) Any individual may file a complaint in writing with the attorney general alleging a violation of this subsection. Such complaint shall include the name of the person alleged to have violated this subsection and any other information as required by the attorney general. Upon receipt of a complaint, the attorney general shall investigate and may file an action against any person found to have violated this subsection.

(3) Any person who violates the provisions of this subsection is subject to a civil penalty of \$20. Each instance in which a person mails an application for an advance voting ballot in violation of this section shall constitute a separate violation.

(m) *A county election officer shall not mail a ballot to a voter unless such voter has submitted an application for an advance voting ballot, except that a ballot may be mailed to a voter if such voter has permanent advance voting ballot status pursuant to subsection (h) or if the election is conducted pursuant to the mail ballot election act, K.S.A. 25-431 et seq., and amendments thereto.*

(n) The secretary of state may adopt rules and regulations in order to implement the provisions of this section and to define valid forms of identification.

Sec. 29. K.S.A. 25-1214 is hereby amended to read as follows: 25-1214. As used in this act: (a) “Federal act” means the uniformed and overseas citizens absentee voting act (~~42 U.S.C. § 1973ff et seq.~~, 52 U.S.C. § 20301 et seq.

(b) (1) “Persons in federal services” means:

~~(1)(A)~~ Members of the armed forces of the United States, while in the active service, and their spouses and dependents;

~~(2)(B)~~ members of the merchant marine of the United States and their spouses and dependents; and

~~(3)(C)~~ citizens of the United States residing outside the territorial

limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

(2) Persons in federal service does not include any person who has failed to respond to a selective service call as certified by the local draft board to the county election officer or who is a deserter from any United States military service.

Sec. 30. K.S.A. 25-1903 is hereby amended to read as follows: 25-1903. (a) A person may become a candidate for election to the office of state board member by either one of the methods provided in this section.

(1) Any person who is an elector of any board member district may petition to be a candidate for member of the state board from the board member district in which such person resides. Any such person shall file with the secretary of state a petition for the candidacy of such person signed by not less than 200 electors residing in such board member district.

(2) Any person who is an elector of any board member district may become a candidate for member of the state board from the board member district in which such candidate resides by filing in the office of the secretary of state a declaration of intent to be such a candidate and payment of a filing fee in the amount of \$25.

(b) Any such petition or declaration of ~~intent~~ *intention* filed by a candidate to run in the primary election held in accordance with K.S.A. 25-203, and amendments thereto, shall be filed no later than 12:00 noon, June ~~10~~ *1*, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday. Any such petition or declaration of ~~intent~~ *intention* filed by an independent candidate for the office of state board member shall be filed no later than 12:00 noon on the Monday preceding the date fixed for the holding of primary elections in accordance with K.S.A. 25-203, and amendments thereto.

Sec. 31. K.S.A. 25-2005 is hereby amended to read as follows: 25-2005. (a) “School district” means all of a school district or all of its territory.

(b) ~~“Plan of change” means a specific proposal to change the voting plan or the method of election, or both, in a school district.~~

(c) ~~“Voting plan” means one of the three voting plans described in this act. “Voting plan-A” is election at large in both primary and general elections. “Voting plan-B” is voting by a district method in the primary and by election at large in the general election. “Voting plan-C” is voting by a district method in both the primary and general elections.~~

Sec. 32. K.S.A. 25-2008 is hereby amended to read as follows: 25-2008. (a) “School office” or “school officer” means members of the governing body of any school district.

(b) “State board” means the ~~state superintendent of public instruction until that office is abolished and thereafter the constitutional~~ state board of education.

Sec. 33. K.S.A. 25-2018 is hereby amended to read as follows: 25-2018. (a) Notices of board member elections and question submitted elections of a school district shall be made as provided in this section.

(b) On or before June 10 of odd-numbered years, the county election officer shall publish a notice of election one time in a newspaper having general circulation in the school district. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall remain on the website until the day after the election.* The notice for board member elections shall state: (1) The name of the school district; (2) the date of the general election; (3) the date of the primary election if one is held; (4) the filing deadline and the place of filing; and (5) the offices or positions to be filled.

(c) All notices provided for by this section shall be given in the form prescribed by the secretary of state to the extent that any notice or part thereof is prescribed by the secretary of state. The provisions of this section shall not be construed to require the secretary of state to prescribe any particular form.

(d) On or before June 10 of each odd-numbered year, a notice of primary elections shall be published by the county election officer *one time* in a newspaper having general circulation in the school district, if a primary election is required to be held. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall remain on the website until the day after the election.* ~~The publication shall be made one time and~~ notice shall state: (1) The name of the school district; (2) the date of the primary election; (3) the names of the candidates and the office or position for which each is a candidate; (4) the voting place or places and the area each voting place is to serve; and (5) the times of opening and closing of the polls. Description of areas shall be in the terms determined by the county election officer.

(e) On or before September 1 of each odd-numbered year, a notice of the general election shall be published by the county election officer one time in a newspaper having general circulation in the school district. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall be published not less than 21 days prior to the election and shall remain on the website until the day after the election.* The notice shall state: (1) The name of the school district; (2) the date of the general election; (3) the names of the candidates and the office or position for which each is a candidate; (4) the voting place or places and the area each

voting place is to serve; and (5) the time of opening and closing of polls. Description of areas shall be in such terms as may be determined by the county election officer.

(f) Notice of any question submitted election of any school district shall be made in the manner provided by K.S.A. 10-120, and amendments thereto. The notice shall state: (1) the name of the school district; (2) the date of the election; (3) the amount of bonds to be issued, if a bond election; (4) the proposition to be voted upon; (5) the hours of opening and closing of the polls; (6) the voting place or places and the area each voting place is to serve; and (7) any other information specifically required by law. Description of areas shall be in the terms determined by the county election officer.

Sec. 34. K.S.A. 25-2021 is hereby amended to read as follows: 25-2021. (a) In school districts in which a member district method of election is in effect, if there are more than three qualified candidates for any member position in any member district, the county election officer shall call, and there shall be held, a primary election in each such member district. The names of the two candidates receiving the greatest number of votes for any member position at the primary election shall appear on the ballots in the general election. If there are three or fewer qualified candidates for any member position, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(b) In school districts in which the election at large method of election is in effect, if there are more than three times the number of candidates as there are board members to be elected, the county election officer shall call, and there shall be held, a primary election. The names of twice the number of candidates as there are board members to be elected who received the greatest number of votes at the primary election shall appear on the ballots in the general election. If there are not more than three times the number of candidates as there are board members to be elected, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(c) If a member is to be elected to fill an unexpired term, the office shall be listed separately on the ballots. If there are more than three candidates for such unexpired term, the county election officer shall call, and there shall be held, a primary election. The names of the two candidates for such unexpired term receiving the greatest number of votes shall appear on the ballots in the general election. If there are three or fewer qualified candidates for the unexpired term of any member position, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(d) On the ballots in general school elections, blank lines for the names of write-in candidates shall be printed at the end of the list of

candidates for each different office. The number of blank lines for such elected office shall be equal to the number to be elected thereto. The purpose of such blank lines shall be to permit the voter to insert the name of any person not printed on the ballot *who is a qualified elector residing in the district* for whom such voter desires to vote for such office. No lines for write-in candidates shall appear on primary school election ballots.

Sec. 35. K.S.A. 25-21a02 is hereby amended to read as follows: 25-21a02. (a) ~~The secretary of state shall develop a public information program to inform the public generally of changes made as a result of moving spring elections to fall elections. Such public information program shall include, at a minimum, the explanation of which public office elections are being transferred from spring to fall elections. The program shall include the use of advertisements and public service announcements as well as posting of information on the opening pages of the official internet websites of the secretary of state and county election officers. The secretary of state and county election officers shall develop dedicated websites to provide voter education and sample ballots for elections.~~

(b) ~~The county election officers in consultation with the secretary of state shall develop ways to reduce the ballot length and expedite the voting process on election days.~~

Sec. 36. K.S.A. 25-2310 is hereby amended to read as follows: 25-2310. ~~County election officers shall cause publication, publish notice of places and dates for registration and the closing thereof before each election in a newspaper having general circulation in the county of the county election officer, of a notice of places and dates for registration and the closing thereof before each election. Such notice shall also be published on the website of the county election office of any county where the election is to be conducted. Such notice shall remain on the website until the day after the registration closes.~~ Such notice also shall give information for registration by mail. Such notice shall be given in such form and at such time or times as is specified by rules and regulations of the secretary of state.

Sec. 37. K.S.A. 25-2502 is hereby amended to read as follows: 25-2502. (a) “General election” means the elections held on the Tuesday following the first Monday in November of both even-numbered and odd-numbered years, and in the case of ~~special elections~~ *an election of any officers to fill vacancies held on a date other than the Tuesday following the first Monday in November*, the election at which any such officer is finally elected.

(b) “Primary election” means the elections held on the first Tuesday in August of both even-numbered and odd-numbered years; and any other preliminary election *held on a date other than the first Tuesday in August*

at which part of the candidates for special election to any national, state, county, township, city, school or other municipal office are eliminated by the process of the election but at which no officer is finally elected.

(c) “Special election” means any election that is not a general or primary election, including, but not limited to, any mail ballot election conducted pursuant to K.S.A. 25-431 et seq., and amendments thereto. A special election shall not be held within 45 days of a general or primary election but may be held on the same day as a general or primary election.

Sec. 38. K.S.A. 25-2507 is hereby amended to read as follows: 25-2507. (a) “Poll book” means a book in which each voter may sign the voter’s signature and a number is assigned by one of the clerks of the election board when the voter is given a ballot or set of ballots. If the county election officer determines that voters shall sign the poll book, such book shall also contain on each page the declaration prescribed by subsection (d).

(b) “Registration book” means:

(1) A book or list containing the names and other information relating to registered voters. Registration books shall have the names entered therein before the same or copies thereof are delivered to the supervising judges. Registration books may also contain blank lines on which each voter shall sign the voter’s signature. If the county election officer determines that voters shall sign the registration book, such book shall also contain on each page the declaration prescribed by subsection (d); or

(2) a book meeting the requirements of ~~K.S.A. 25-2507(b)(1), and amendments thereto;~~ paragraph (1), and containing:

(A) Blank lines on which each voter shall sign the voter’s signature; ~~containing on each page~~

(B) the declaration prescribed by subsection (d) ~~on each page of the book; and containing~~

(C) the numbers assigned by one of the clerks of the election board when voters are given ballots or sets of ballots.

(c) “Party affiliation lists” means a list containing the names of all registered voters of a county who have lawfully designated a party affiliation.

(d) “Declaration” means the following: “I, the undersigned, declare under penalty of perjury that I am a registered voter in the state of Kansas, county of _____, that I have not signed a name other than my own in order to represent myself as any other registered voter, and that I am qualified to vote and have not previously voted and will not vote again in the election held on this date, in this or any other jurisdiction in the United States, for any offices or ballot issues.”

(e) “Abstract” means a list of election results for a particular precinct or district with the total votes for each candidate for elected office or the total votes for and against any constitutional amendment or question presented on the ballot.

Sec. 39. K.S.A. 25-26a03 is hereby amended to read as follows: 25-26a03. (a) Notwithstanding any other law or provisions to the contrary, no election precinct shall be created, divided, abolished or consolidated or the boundaries thereof changed:

(1) During the period four months prior to each primary election and the succeeding general election; or

(2) between January 1 of a year the last digit of which is ~~8~~ and ~~December 1~~ of a year the last digit of which is 0, and from and after January 1, 1993, between January 1 of a year the last digit of which is 7 0 and the time when the legislature has been redistricted in a year the last digit of which is 2, except in the following cases:

~~(a) (1)(A)~~ If required by the creation of a political subdivision, new precincts may be created.

~~(2)(B)~~ If there is an alteration of a political subdivision by annexation, new precincts may be created.

~~(3)(C)~~ If a political subdivision annexes an area adjacent to the political subdivision boundary, the annexed area may be included in a precinct immediately adjacent to it, if the annexed area is in the same legislative district.

~~(4)(D)~~ A municipality or county election officer may establish new election precincts lying entirely within the boundaries of any existing precinct and shall designate the new precincts by name or number, or a combination of name and number, ~~which shall include~~ *including* the designated name or number of the former precinct.

~~(5)(E)~~ If required to conform and coincide with a federal census block boundary established by the federal bureau of the census, a county election officer may change precinct boundaries.

(b) When necessary to comply with the provisions of this act, not less than 45 days after the legislature has been redistricted, or by June ~~10~~ 1 in a year the last digit of which is 2-~~(, whichever occurs first)~~, precinct boundaries shall be reestablished.

Sec. 40. K.S.A. 25-2702 is hereby amended to read as follows: 25-2702. The county election officer may establish more than one precinct in any township or divide any township into precincts. Such division shall be made by a declaration made at least ~~ninety~~ (90) days before any county or state primary or general election, ~~and~~. Notice of such division, showing the boundaries of each precinct, shall be published once each week for three ~~(3)~~ consecutive weeks in a newspaper of general circulation in the county in which such township is located. *Notice of the election shall also be published on the website of the county election office of any county where the election is to be conducted.* A division once made shall remain the same until changed by subsequent declaration and publication notice as herein required. Upon making such division into precincts, the county election

officer shall designate the boundaries of each precinct. A voter shall not be eligible to vote at any national, state, county or township election in any voting area other than the one in which ~~he or she~~ *such voter* resides.

Sec. 41. K.S.A. 25-2704 is hereby amended to read as follows: 25-2704. (a) The county election officer shall provide ballot boxes for each voting place. The secretary of state may adopt rules and regulations authorizing, in certain cases, additional or fewer ballot boxes than specified in subsection (b) ~~of this section~~ to be supplied.

(b) Unless otherwise provided by rules and regulations adopted ~~under this section~~ by the secretary of state, a separate ballot box shall be provided for each of the types of ballots named in the following list, if such ballots are to be voted at the election:

- (1) A box for “national and state ballots”;
- (2) a box for “county and township ballots”;
- (3) a box for “judicial ballots”;
- (4) a box for “city ballots”;
- (5) a box for “school ballots”;
- (6) a box for “ballots for constitutional amendments”; *and*
- (7) a box for “questions submitted.”

(c) Each ballot box shall be labeled according to its appropriate designation as set out in ~~quotation marks in~~ subsection (b) ~~of this section~~.

(d) *The provisions of this section shall only apply to elections conducted in counties that do not use tabulators or optical scanners to count votes.*

Sec. 42. K.S.A. 25-2705 is hereby amended to read as follows: 25-2705. (a) At the time ~~that the~~ a voting place is opened, the supervising judge shall cause the ballot boxes to be opened in the presence of people there assembled. The ballot boxes shall be turned upside down so as to empty ~~them~~ *such boxes* of everything therein, ~~and the same~~. *Each ballot box* shall then be locked securely and shall not be opened again until opened for the purpose of canvassing.

(b) *The provisions of this section shall only apply to elections conducted in counties that do not use tabulators or optical scanners to count votes.*

Sec. 43. K.S.A. 25-2706 is hereby amended to read as follows: 25-2706. (a) The county election officer shall prepare and furnish copies of all registrations and all books, maps, instructions and blanks needed for the use and guidance of election boards and voters. County election officers may adopt such rules and regulations for elections as may be needed and not in conflict with state law or rules and regulations. Such rules and regulations shall be submitted to the secretary of state for approval.

(b) The county election officer shall furnish printed instructions to election boards; ~~defining their~~ *duties of such officers* and the law governing elections.

(c) (1) The county election officer shall furnish *and publish on the website of the county election office*:

- (A) Printed instructions to voters;
- (B) a list of voters' rights and responsibilities;
- (C) a sample ballot;
- (D) notification of the date of the election; and
- (E) the polling place hours.

(2) Each of the items in paragraph (1) shall be posted in every voting place at every election.

(3) Wherever the secretary of state deems it advisable, all items listed in ~~subsection (c)~~ *paragraph (1)* shall be printed in English and in a language or languages other than English.

(d) The secretary of state shall specify the form and contents of instructions to voters, list of voters' rights and responsibilities and instructions to election boards. Such specifications shall be transmitted to county election officers and may be changed from time to time by the secretary of state.

Sec. 44. K.S.A. 25-2805 is hereby amended to read as follows: 25-2805. If any judges or clerks shall fail or refuse to appear and serve at the proper time and place, or for any cause are or become disqualified, then the electors present shall promptly notify the county election officer thereof. The county election officer shall appoint such person as ~~he~~ *such officer* may select to fill any such vacancy. ~~If such a vacancy continues for more than one hour after notice to the county election officer, the electors present may select from their number, viva voce, judges and clerks to fill such vacancies.~~

Sec. 45. K.S.A. 25-2812 is hereby amended to read as follows: 25-2812. ~~From and after January 1, 2010:~~ (a) Not less than 60 days before any election, the county election officer may contact the administrator or operator at each nursing facility, assisted living facility and ~~hospital-based~~ *hospital-based* long-term care unit to request that the registered voters in ~~the~~ *such* facility be offered the opportunity to vote in such election according to the procedures outlined in this section. If the administrator or operator of the facility agrees, the county election officer and the administrator or operator shall establish a date, mutually agreed upon, for such voting to take place. The provisions of this section shall not apply to mail ballot elections conducted pursuant to K.S.A. 25-431 et seq., and amendments thereto.

(b) The county election officer shall appoint a special election board of two or more members to administer ballots to registered voters who are residents of any facility designated in subsection (a) and ~~which~~ *that* has agreed to participate. The members of such special election board shall be appointed and trained by the county election officer in the same manner

as members of election boards serving in polling places on election day. The members of a special election board shall possess the qualifications of registered voters in Kansas and in the county where ~~they~~ *such members* serve and shall subscribe the oath prescribed by law. The members of the board shall not all be affiliated with the same political party, to the extent practicable, and shall not be candidates for any offices, other than the offices of precinct committeemen or precinct committeewomen, to be elected in the election at which ~~they~~ *such members* serve.

(c) The special election board shall, to the extent practicable, follow advance voting procedures as provided for ~~in Kansas~~ *by* law. All persons who are registered voters of the county and who are current residents of the facility may request a ballot from the special election board. In the case of a voter who has applied for and received permanent advance voting status pursuant to ~~subsection (g) of K.S.A. 25-1122(h)~~, and amendments thereto, the special election board may deliver such voter's ballot to the voter instead of mailing the ballot as required by K.S.A. 25-1123, and amendments thereto. Any voter may receive assistance from a member of the special board or from a person of such voter's choice. Any person rendering assistance to a voter shall sign a written statement as provided for in ~~subsection (d) of K.S.A. 25-1124(e)~~, and amendments thereto, and shall file such statement with the special board or with the county election officer.

(d) The special election board shall ensure that the privacy of each voter is preserved and shall cause each voter's ballot to be sealed in an envelope or deposited in a locked ballot box. In cases where ~~direct recording~~ *electronic or electromechanical* voting systems are used, the special election board shall ensure that the voting equipment is secured from tampering and unauthorized access. At the conclusion of the voting process at a facility, the ballots, *voting equipment*, voting records and materials shall be returned to the county election officer. All the members of the special election board shall certify the receipt and return of the ballots, voting equipment, voting records and materials.

(e) The county election officer shall ensure that the ballots received from any such special election board shall be tabulated according to procedures established by law for the tabulation of advance voting ballots and shall ensure that the tabulated returns are included with other official election returns and presented to the county board of canvassers for the canvass as provided by law. Any ballot cast by a voter pursuant to this section may be challenged in the same manner as other ballots are challenged.

(f) The county election officer shall ensure that mobile voting sites established under this act are clearly posted as such during the hours voting is allowed.

(g) (1) For the purposes of this section, the term:

(A) “Assisted living facility” ~~shall have the meaning ascribed to it means the same as defined~~ in K.S.A. 39-923, and amendments thereto.

(B) ~~“Hospital-based”~~ *Hospital-based* long-term care unit” means a unit that provides physician services and continuous nursing supervision for patients who:

- (i) Are not in an acute phase of illness; and
- (ii) currently require nursing care that is primarily of a convalescent, restorative or long-term nature. Long-term care unit also includes medicare-certified, distinct-part long-term care units.

(C) “Nursing facility” ~~shall have the meaning ascribed to it means the same as defined~~ in K.S.A. 39-923, and amendments thereto.

Sec. 46. K.S.A. 25-2905 is hereby amended to read as follows: 25-2905. (a) If not already folded, the election board shall fold each ballot before handing the same to a voter. If more than one ballot is to be handed to a voter, the ballots in the set shall be folded separately. Ballots shall be folded so that the names of candidates are concealed and the printed endorsement and ballot number are on the outside of the folded ballot. Before leaving the voting booth, the voter shall refold each of ~~his~~ *such voter's* ballots separately in the manner ~~he~~ received ~~it~~ and so that the names of candidates and marks on the ballot are concealed. Upon leaving the booth, the voter shall deliver ~~his~~ *the* ballot or set of ballots to one of the judges, who shall ~~forthwith,~~ *promptly* and in the presence of the voter and of the election board, properly clip the number therefrom and deposit the ballots in their respective ballot boxes.

(b) *The provisions of this section shall only apply to elections conducted in counties that do not use tabulators or optical scanners to count votes.*

Sec. 47. K.S.A. 25-3005 is hereby amended to read as follows: 25-3005. At all elections authorized poll agents shall be allowed to be present and observe the proceedings at all original, intermediate and final canvasses of elections, *at all recounts authorized by K.S.A. 25-3107, and amendments thereto, at all audits conducted after an election pursuant to K.S.A. 25-3009, and amendments thereto,* and at the time and place of casting ballots, subject to such limitations as are prescribed by law or rules and regulations ~~of adopted by~~ the secretary of state. The supervising judge of each voting place shall be in charge thereof and may direct authorized poll agents as to their conduct ~~within the voting place,~~ but such directions shall not favor agents of one kind or party over agents of another kind or party, and such directions shall not be contrary to law, rules and regulations ~~of adopted by~~ the secretary of state, or instructions of the county election officer.

Sec. 48. K.S.A. 2022 Supp. 25-3009 is hereby amended to read as follows: 25-3009. (a) After an election and prior to the meeting of the county

board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit or tally of each vote cast, regardless of the method of voting, in 1% of all precincts, with a minimum of one precinct located within the county. The precinct or precincts shall be randomly selected and the selection shall take place after the election.

(b) (1) The audit shall be performed manually and shall review all paper ballots selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer shall determine the members of the sworn election board who will conduct the audit.

(2) The audit shall review contested races as follows:

(A) In presidential election years:

- (i) One federal race;
- (ii) one state legislative race; ~~and~~
- (iii) one county race; *and*
- (iv) *one constitutional amendment question, if any.*

(B) In even-numbered, non-presidential election years:

- (i) One federal race;
- (ii) one statewide race;
- (iii) one state legislative race; ~~and~~
- (iv) one county race; *and*
- (v) *one constitutional amendment question, if any.*

(C) In even-numbered election years, any federal, statewide or state legislative race that is within 1% of the total number of votes cast tallied on election night, as determined by the secretary of state, shall be audited. The county election officer shall conduct the audit in the manner set forth in subsection (a) in 10% of all county precincts in the specified race, with a minimum of one precinct in the county. The precincts audited pursuant to this subsection shall be in addition to the precincts audited under ~~subsections~~ *subparagraphs* (2)(A) and (B).

(D) In odd-numbered election years, two local races will be randomly selected, and the selection shall take place after the election.

(c) At least five days prior to the audit, notice of the time and location of the audit shall be provided to the public on the official county website. The audit shall be conducted in a public setting. Any candidate or entity who is authorized to appoint a poll agent may appoint a poll agent for the audit.

(d) The results of the audit shall be compared to the unofficial election night returns and a report shall be submitted to the county election office and to the secretary of state's office prior to the meeting of the county board of canvassers. If a discrepancy is reported between the audit and the unofficial returns and cannot be resolved, the county

election officer or the secretary of state may require audits of additional precincts. Once the audit has been completed, the results of the audit shall be used by the county board of canvassers when certifying the official election results.

(e) Upon publication of the notice of the audit pursuant to subsection (c), the signed and certified official abstracts required by K.S.A. 25-3006, and amendments thereto, shall be made available by the county election office for review by any authorized poll agent. Such abstracts shall be from all precincts and shall not be limited to those precincts that are subject to the audit. The abstracts shall be available for review until commencement of the original canvass.

(f) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precincts and offices involved in the audit.

Sec. 49. K.S.A. 25-3104 is hereby amended to read as follows: 25-3104. The original canvass of every election shall be performed by the election boards at the voting places. The county election officer shall present the original returns, together with the ballots, books and any other records of the election, for the purpose of canvass, to the county board of canvassers at any time between 8 a.m. and 10 a.m. on the Monday next following any election held on a Tuesday, except that the county election officer may move the canvass to any business day not later than 13 days following any election. Notice of the time and place of the canvass shall be published in a newspaper of general circulation in the county prior to the canvass *and shall also be published on the website of the county election office*. For elections not held on a Tuesday, the canvass by the county board of canvassers shall be held on a day and hour designated by it, and not later than the 13th day following the day of such election.

Sec. 50. K.S.A. 25-3107 is hereby amended to read as follows: 25-3107. (a) At the time of commencement of any canvass by the county board of canvassers the county election officer shall present to the county board of canvassers the preliminary abstracts of election returns, together with the ballots and records returned by the election boards and, as provided by rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting ballots received after the closing of the polls pursuant to K.S.A. 25-1132(b), and amendments thereto. The county board of canvassers shall inspect and check the records presented by the county election officer and shall hear any questions which the county election officer believes appropriate for determination of the board. The county board of canvassers shall do what is necessary to obtain an accurate and just canvass of the election and shall finalize the preliminary abstract of election returns by making any needed changes, and certifying its authenticity and accuracy. The cer-

tification of the county board of canvassers shall be attested by the county election officer. Neither the county board of canvassers nor the county election officer shall open or unseal sacks or envelopes of ballots, except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and amendments thereto, or other specific provision of law or as is authorized to carry out a recount under subsection (b), or as authorized under subsection (e).

(b) If a majority of the members of the county board of canvassers shall determine that there are manifest errors appearing on the face of the poll books of any election board, which might make a difference in the result of any election, or if any candidate shall request the recount of the ballots cast in all or in only specified voting areas for the office for which the person is a candidate, or if any registered elector who cast a ballot in a question submitted election requests a recount in all or only specified voting areas to determine the result of the election, the county board of canvassers shall cause a special election board appointed by the county election officer to meet under the supervision of the county election officer and recount the ballots with respect to any office or question submitted specified by the county board of canvassers or requested by the candidate or elector. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting the recount. The county election officer shall not be a member of the special election board. Before the special election board meets to recount the ballots upon a properly filed request, the party who makes the request shall file with the county election officer a bond, with security to be approved by the county or district attorney, conditioned to pay all costs incurred by the county in making the recount. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, or if as a result of the recount a question submitted is overturned, no action shall be taken on the person's bond and the county shall bear the costs incurred for the recount. Any recount must be requested in writing and filed with the county election officer not later than 5 p.m. on the day following the *last* meeting of the county board of canvassers. The request shall specify which voting areas are to be recounted. The county election officer shall immediately notify any candidate involved in the election for which the recount is requested, or shall notify the county chairperson of each candidate's party. ~~Any~~ the recount shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Upon completion of any recount under this subsection, the election board shall package and reseal the ballots as provid-

ed by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount.

(c) (1) The provisions of this subsection shall apply to ~~candidates at~~ any election for:

- (A) Any state or national office elected on a statewide basis;
- (B) the office of president or vice president of the United States;
- (C) the office of members of *the* United States house of representatives;
- (D) *the* office of members of *the* state senate or house of representatives whose district is located in two or more counties; ~~and~~
- (E) *the* office of members of *the* state board of education; *and*
- (F) *a constitutional amendment.*

(2) Any candidate may request a recount in one or more counties. *Any registered elector who cast a ballot in an election for a constitutional amendment submitted may request a recount in one or more counties.* Any such recount ~~must~~ *shall* be requested in writing and filed with the secretary of state not later than 5 p.m. on the ~~second Friday following the election day following the last meeting of the county board of canvassers canvassing votes in the election for which the recount is requested.~~ The request shall specify which counties or *precincts* are to be recounted. If a recount is required in a county that uses optical scanning ~~systems~~ *equipment*, as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting the recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file, *contemporaneously with a request for a recount, a bond* with the secretary of state ~~a bond~~, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making the recount. The amount of the bond shall be determined by the secretary of state. A candidate described in subsection (c)(1)(D) and (E) may post a bond as provided by subsection (b) in lieu of the bond required by this subsection. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.

(3) The secretary of state immediately shall notify each county election officer affected by the recount and any candidate involved in the election for which the recount is requested. If the candidate cannot be reached, then the secretary of state shall notify the state chairperson of such candidate's party. Any such recount shall be conducted under the

supervision of the county election officers at the direction of the secretary of state, and shall be initiated not later than the following day and shall be completed not later than 5 p.m. on the fifth day following the filing of the request for a recount, including Saturdays, Sundays and holidays. Each county election officer involved in the recount shall appoint a special election board to recount the ballots. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount. Upon completion of any recount under this subsection, the special election board in each county shall package and reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The county election officer in each county immediately shall certify the results of the recount to the secretary of state.

(d) (1) ~~The provisions of this subsection shall apply to candidates at~~ any general elections for:

- (A) Any state or national office elected on a statewide basis;
- (B) the office of president or vice president of the United States;
- (C) the office of members of *the* United States house of representatives;
- (D) *the* office of members of state senate or house of representatives; and
- (E) *the* office of members of *the* state board of education.

(2) Whenever the election returns reflect that a candidate for office was defeated by $\frac{1}{2}$ of 1% or less of the total number of votes cast and if the candidate requests a recount in one or more counties ~~of the ballots~~, *no bond shall be required and the state shall bear the cost of any recount performed using the method by which the ballots were counted originally.*

(3) Not later than 60 days following a recount conducted pursuant to this subsection, the board of county commissioners of each county in which the recount occurred shall certify to the secretary of state the amount of all necessary direct expenses incurred by the county. Payment for such expenses shall be made to the county treasurer of the county upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary of state. Upon receipt of such payment and reimbursements, the county treasurer shall deposit the entire amount thereof in the county election fund, if there is one and if there is not then to the county general fund.

(4) The secretary of state, with the advice of the director of accounts and reports, shall determine the correctness of each amount certified under this section and adjust any discrepancies discovered before approving vouchers for payment to any county.

(e) Procedures for canvassing and challenging advance voting ballots received by mail after the closing of the polls pursuant to K.S.A.

25-1132(b), and amendments thereto, shall be as set forth in rules and regulations adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and amendments thereto.

Sec. 51. K.S.A. 25-3201 is hereby amended to read as follows: 25-3201. The governor, secretary of state and attorney general, *or such officers' designee*, shall constitute the state board of canvassers. Any two of such members may act for such board.

Sec. 52. K.S.A. 25-3301 is hereby amended to read as follows: 25-3301. (a) Each registered voter of this state who has declared a party affiliation as provided in this section or in K.S.A. 25-3304, and amendments thereto, shall be entitled to vote at every partisan primary election. *Each political party entitled to nominate candidates by primary election shall notify the secretary of state in writing on or before January 15 of any year in which a partisan general election is to be held whether voters who are unaffiliated with such political party may vote in such party's primary election.*

(b) The county election officer shall prepare for each voting place at each partisan primary election a party affiliation list, duly certified by such officer, ~~which~~ *that* clearly indicates the party affiliation of each registered voter in the voting area who has declared a party affiliation. The registration book prepared for a voting place pursuant to K.S.A. 25-2318, and amendments thereto, may be used as such list, but no registration book prepared for use at a voting place in an election other than a partisan primary election or an election held at the same time as a partisan primary election shall indicate in any manner the party affiliation of any voter. Such list shall be delivered by the supervising judge to the voting place before the opening of the polls.

(c) The party affiliation list provided for by subsection (b) shall be used to determine the party affiliation of a voter offering to vote at a partisan primary election and of a voter applying for an advance voting ballot pursuant to K.S.A. 25-1122, and amendments thereto. If a voter's party affiliation is not indicated on the party affiliation list, such voter shall state the voter's party affiliation in writing on a form prescribed by the secretary of state. A judge at the precinct polling place, or the county election officer or such officer's designee, shall give such voter a primary ballot of the voter's party affiliation, and such person thereupon shall be entitled to vote. Such a statement of party affiliation shall constitute a declaration of party affiliation, and all such signed statements shall be returned to the county election officer, who shall cause them to be recorded on the party affiliation list.

(d) Party affiliation statements shall be preserved for five years. The county election officer may dispose of the statements in the manner approved for destruction of ballots as provided in K.S.A. 25-2708, and amendments thereto.

(e) The county election officer shall update party affiliation lists as provided by rules and regulations of the secretary of state.

Sec. 53. K.S.A. 25-3303 is hereby amended to read as follows: 25-3303. Whenever a name is ~~purged~~ removed from the voter registration books as provided by K.S.A. 25-2316c, *and amendments thereto*, such name shall also be ~~purged or~~ removed from the party affiliation list.

Sec. 54. K.S.A. 25-3304 is hereby amended to read as follows: 25-3304. (a) Any person who has declared such person's party or voter affiliation in the manner provided by law shall be listed on a voter affiliation list as a member of a registered political organization, or on a party affiliation list if a member of a recognized political party, unless the person's name is ~~purged or removed therefrom~~ as provided by K.S.A. 25-3303, and amendments thereto, or unless the person changes party or voter affiliation as provided in this section.

(b) Any person, who, having declared a party or voter affiliation, desires to change the same, may file a written declaration with the county election officer, stating the change of party or voter affiliation. Such declaration cannot be filed during the time from the candidate filing deadline, as prescribed in K.S.A. 25-205, 25-305 and 25-4004, and amendments thereto, through the time when the primary election results are certified by the secretary of state. The county election officer shall enter a record of such change on the party or voter affiliation list of such preceding primary election in the proper column opposite the voter's name.

Sec. 55. K.S.A. 25-3801 is hereby amended to read as follows: 25-3801. (a) At each primary election, the members of the party residing in each precinct in each county of the state shall elect a man ~~of their number from such members~~ as precinct committeeman and a woman ~~of their number from such members~~ as precinct committeewoman. No person shall be eligible ~~to file a declaration of intention to be a candidate for~~, to be a candidate for or hold the office of precinct committeeman or precinct committeewoman of a party in any precinct unless ~~such the~~ person actually lives, resides and occupies a place of abode in such precinct, and is in all other respects a qualified elector and is ~~shown as~~ a member of such party on the party affiliation list, *maintained* in the office of the county election officer. *Each precinct committeeman and committeewoman shall assume the duties of precinct committeeman and committeewoman on the day after the primary election and shall not be required to take an oath under K.S.A. 54-106, and amendments thereto.*

(b) Except as provided in subsection ~~(b)~~ (c), any vacancy occurring in the office of precinct committeeman or committeewoman shall be promptly filled by appointment by the county chairperson, ~~except that for any vacancy which that~~ occurs because the party had no candidate at

~~such~~ the primary election shall not be filled until the county central committee has elected or reelected its chairperson. Not later than three days after appointment of precinct committeemen and committeewomen, the county chairperson making the appointments shall notify the county election officer of such appointments *and include the name, address, email address, if available, and a phone number or phone numbers, including a mobile phone number, if available, of each appointee in such notification.* The county election officer shall make such appointments public immediately upon receipt thereof. ~~As used in this act, “primary election” means the statewide election held in August of even-numbered years.~~

~~(b)(c)~~ (1) When a convention is to be held under article 39 of chapter 25 of Kansas Statutes Annotated, *and amendments thereto*, to fill a vacancy, no appointments shall be made under subsection (a):

(1)(A) After the county chairperson has received notice from the county election officer of a vacancy or a pending vacancy in a county elected office; or

~~(2)(B)~~ after the county chairperson in each county, all or a part of which, is located within a legislative district has received notice from the secretary of state of a vacancy or a pending vacancy in a legislative office.

(2) After the vacancy has been filled by a person elected at a convention held under article 39 of chapter 25 of the Kansas Statutes Annotated, *and amendments thereto*, any vacancy in the office of precinct committeeman or committeewoman shall be filled as provided by subsection (a).

(d) *If a precinct committeeman or committeewoman is elected as a write-in candidate, the county clerk shall request from the appropriate county chairperson the name, address, email address, if available, and a phone number or phone numbers, including a mobile phone number, if available, of such elected precinct committeeman or committeewoman.*

(e) *Each precinct committeeman and committeewoman shall report any changes in such person’s name, address, email address and phone numbers to the county election officer not later than 10 days after such change.*

(f) *The county election officer shall send to the secretary of state within seven days after each primary election in even-numbered years a list of who holds the office of precinct committeeman or committeewoman along with the name, address, phone number and email address, if available, of each such person. The county officer shall report all updates of such information at the time such updates are received to the secretary of state. The secretary of state shall keep an updated list of all precinct committeepersons, including their names, addresses, phone numbers and their email addresses, if available.*

(g) *As used in this section, “primary election” means the election held on the first Tuesday in August of even-numbered years.*

Sec. 56. K.S.A. 25-4004 is hereby amended to read as follows: 25-4004. The provisions of K.S.A. 25-205, and amendments thereto, shall not apply to the offices of governor and lieutenant governor. The names of candidates for governor and lieutenant governor shall be printed upon the official primary ballot when each pair thereof shall have qualified to become candidates in one or the other of the following methods ~~and none other: First, they shall have had filed in~~

(a) *Nomination petitions shall be filed on their behalf, not later than 12 noon, June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a legal holiday, then before 12 noon the following business day, nomination papers, commonly called nomination petitions, as provided for in K.S.A. 25-4005, and amendments thereto; or, second, they*

(b) such persons shall have filed not later than the time for filing nomination papers petitions, as above provided in paragraph (a), with the secretary of state, as hereinafter prescribed, a declaration of intention to become candidates, accompanied by a fee as provided in K.S.A. 25-4006, and amendments thereto.

Sec. 57. K.S.A. 25-4005 is hereby amended to read as follows: 25-4005. (a) The nomination papers or petitions as mentioned described in K.S.A. 25-4004, and amendments thereto, shall be in substantially the following form:

I, the undersigned, an elector of the county of _____, and state of Kansas, and a duly registered voter and a member of the _____ party, hereby nominate

(Here insert name and city)

and state of Kansas as a candidate for the office of governor, and running with such candidate

(Here insert name and city)

and state of Kansas as a candidate for the office of lieutenant governor to be voted for at the primary to be held on the first Tuesday in August in _____, as representing the principles of such party; and I further declare that I intend to support the candidates herein named and that I have not signed and will not sign any *nomination* petition ~~or nomination paper~~ for any other persons, for such offices at the next ensuing election.

(HEADING)

Name of Signers	Street Number or RR (as Registered)	Name of City	Date of Signing
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All nomination papers petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(b) Each signer of a nomination ~~paper~~ *petition* shall sign ~~but only one such paper petition~~ for governor and lieutenant governor, and shall declare that such signer intends to support the candidates ~~therein~~ named, ~~and shall add to the signer's signature in such petition.~~ The signer's residence, ~~if in a city, by including the street and number, if any; or, otherwise by, or such address as otherwise shown on such signer's registration shall be included with such signer's signature.~~ No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address ~~they such marks~~ shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(c) (1) All signers of each separate nomination ~~paper~~ *petition* shall reside in the same county. The affidavit of a petition circulator, as defined in K.S.A. 25-3608, and amendments thereto, shall be appended to each such nomination ~~paper~~ *petition*, stating that to the best of such petition circulator's knowledge and belief;

(A) All the signers thereof are qualified electors of that county; ~~that the petition circulator knows that they~~

(B) ~~such signers~~ signed the ~~same~~ *petition* with full knowledge of the contents thereof; ~~that their~~

(C) ~~such signers'~~ respective residences are correctly stated therein; ~~that~~

(D) each signer signed the ~~same~~ *petition* on the date stated opposite such signer's name; ~~and that~~

(E) the affiant intends to support the candidates therein named.

(2) Such affidavit shall be prima facie evidence of the facts ~~therein~~ stated *in such affidavit*.

(d) Such nomination ~~papers~~ *petition* shall be signed by not less than 1% of the total vote of the party designated in the state. The basis of the percentage shall be the vote of the party for secretary of state at the last preceding general election of secretary of state, or, in case of a new party, the basis of a percentage shall be the vote cast for the successful candidate for secretary of state at the last preceding general election of secretary of state.

Sec. 58. K.S.A. 25-4148d is hereby amended to read as follows: 25-4148d. (a) Every treasurer for a party committee or political committee shall file reports of contributions as prescribed by this act. Reports shall be filed with the secretary of state. Reports required by this section shall be in addition to any other reports required by law.

(b) (1) The report shall contain the name and address of each person who makes a contribution to the party committee or political committee in an aggregate amount or value in excess of \$300 or more during the period commencing 11 days before a primary or general election at which a state or local officer is to be elected and ending at 11:59 p.m. on the

Wednesday preceding the date of the election. Such report shall contain the amount and date of each such contribution. The report shall be made on or before the close of business on the Thursday preceding the date of the election.

(2) In addition, a separate report shall be made on a daily basis for the Thursday, Friday, Saturday and Sunday immediately preceding the election. Each daily report shall contain the information required in paragraph (1) ~~of this section~~. Each report shall be filed by 5:00 p.m. on the next day respectively.

(c) Reports required by this section shall be filed *with the secretary of state during regular business hours* by hand delivery, or express delivery service, ~~facsimile transmission~~ or *at any time* by any electronic method authorized by the secretary of state.

(d) (1) “Contribution” ~~shall have the meaning ascribed to it~~ *means the same as defined* in K.S.A. 25-4143, and amendments thereto.

(2) “Party committee” ~~shall have the meaning ascribed to it~~ *means the same as defined* in K.S.A. 25-4143, and amendments thereto.

(3) “Political committee” ~~shall have the meaning ascribed to it~~ *means the same as defined* in K.S.A. 25-4143, and amendments thereto.

(e) The provisions of this section shall be *a* part of and supplemental to the campaign finance act.

Sec. 59. K.S.A. 25-4322 is hereby amended to read as follows: 25-4322. (a) Before any petition for recall of a local officer is circulated, a copy thereof accompanied by names and addresses of the recall committee and sponsors shall be filed in the office of the county election officer with whom the petitions are required to be filed. The copy of the petition so filed shall be subscribed by the members of the recall committee in the presence of such county election officer. The recall committee shall represent all sponsors and subscribers in matters relating to the recall. Notice on all matters pertaining to the recall may be served on any member of the recall committee in person or by mail addressed to a committee member as indicated on the petition so filed. The county election officer, upon request, shall notify the recall committee of the official number of votes cast for all candidates for the office of the local officer sought to be recalled, such percentage to be based upon the last general election for the current term of office of the officer sought to be recalled.

(b) Before any petition for recall of a local officer is circulated, the county election officer shall transmit a copy of such petition to the county or district attorney or to the attorney designated pursuant to subsection (c) for determination of the sufficiency of the grounds stated in the petition for recall. Within five *business* days of receipt of the copy of the petition from the county election officer, the county or district attorney or the attorney designated pursuant to subsection (c) shall make such de-

termination and notify the county election officer, the officer sought to be recalled and the recall committee of such determination. Such determination shall include whether:

- (1) The facts do not support the grounds for recall as stated in the petition for recall;
- (2) the petition is not substantially in the required form;
- (3) the petition was filed during the first 120 days of the term of office of the official sought to be recalled or within less than 180 days of the termination of the term of office of the officer sought to be recalled;
- (4) the person named in the petition is not a local officer;
- (5) there is an insufficient number of required signatures of any kind;
- (6) the local officer sought to be recalled has been or is being subjected to another recall election during such officer's current term of office; or
- (7) the application does not conform to any other requirement of this act.

(c) In the case of a recall of the county or district attorney, a judge of the district court of such county shall designate an attorney to determine the sufficiency of the grounds stated in the petition for recall. Such attorney shall perform the duties imposed on the county or district attorney in the recall of other local officers.

(d) All mandamus proceedings to compel a recall election and all injunction proceedings to restrain a recall election shall be commenced within 30 days after the county or district attorney's decision.

Sec. 60. K.S.A. 2022 Supp. 25-4414 is hereby amended to read as follows: 25-4414. (a) Electronic or electromechanical voting system or electronic poll book fraud is:

~~(a)~~(1) Being in unlawful or unauthorized possession of electronic or electromechanical voting system equipment, electronic poll book equipment, computer programs, operating systems, firmware, software or ballots;

(2) *accessing without authorization or facilitating the unauthorized access to electronic or electromechanical voting system equipment, electronic poll book equipment, computer programs, operating systems, firmware, software or ballots;*

(3) *knowingly publishing or causing to be published any password or other confidential information relating to electronic or electromechanical voting system equipment, electronic poll book equipment, computer programs, operating systems, firmware or software; or*

~~(b)~~(4) intentionally tampering with, altering, disarranging, defacing, impairing or destroying any electronic or electromechanical voting system, electronic poll book or component part thereof, or any ballot used by such electronic or electromechanical voting systems.

(b) Electronic or electromechanical voting system or electronic poll book fraud is a severity level 9, nonperson felony.

Sec. 61. K.S.A. 25-4612 is hereby amended to read as follows: 25-4612. (a) Optical scanning equipment fraud is:

~~(a)(1)~~ Being in unlawful or unauthorized possession of ballots, optical scanning equipment, computer programs, operating systems, firmware or software;

(2) *accessing without authorization or facilitating the unauthorized access to optical scanning equipment;*

(3) *knowingly publishing or causing to be published any password or other confidential information relating to optical scanning equipment; or*

~~(b)(4)~~ intentionally tampering with, altering, disarranging, defacing, impairing or destroying any optical scanning equipment or component part thereof, or any ballot, operating system, firmware or software used by a system.

(b) Optical scanning equipment fraud is a severity level 9, nonperson felony.

Sec. 62. K.S.A. 25-4703 is hereby amended to read as follows: 25-4703. As used in this act:

(a) “Arbitrator” means a neutral third party selected by the secretary of state who resolves the dispute between the complainant and respondent, and whose decision is final.

(b) “Complainant” means the person who files a complaint with the Kansas secretary of state under this act.

(c) “Respondent” means any state or local election official whose actions are asserted to be in violation of title III in a complaint filed under this act.

(d) “Title III” means title III of the help America vote act of 2002, public law 107-252, 116 Stat. 1666 (2002), codified at ~~42 United States code §§ 15481-15485~~ 52 U.S.C. §§ 21081-21102.

Sec. 63. K.S.A. 25-4709 is hereby amended to read as follows: 25-4709. (a) *Except as provided in subsection (c)*, if requested by the complainant, the secretary of state shall conduct a hearing on the record to review the complaint. The secretary of state or other person designated by the secretary of state shall serve as the hearing officer.

(b) The hearing shall be conducted no later than 30 days after the secretary of state receives the complaint. The secretary of state shall give at least ~~5~~ five days advance notice of the date, time, and place of the hearing to the complainant and each named respondent.

(c) *After reviewing a complaint and giving all inferences to the complainant, the secretary of state, after consultation on such complaint with the attorney general, may dismiss the complaint without a hearing if the complaint fails to allege facts that assert a violation of title III.*

Sec. 64. K.S.A. 71-1415 is hereby amended to read as follows: 71-1415. (a) In college districts in which a district method of election is in

effect, if there are more than three qualified candidates for any member position, the county election officer shall call, and there shall be held, a primary election in each such member district. The names of the two candidates receiving the greatest number of votes for any member position at the primary election shall appear on the ballots in the general election. If there are three or fewer qualified candidates for any member position, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(b) In college districts in which the election at large method of election is in effect, if there are more than three times the number of candidates as there are trustees to be elected, the county election officer shall call, and there shall be held, a primary election. The names of twice the number of candidates as there are trustees to be elected who receive the greatest number of votes at the primary election shall appear on the ballots in the general election. If there are not more than three times the number of candidates as there are trustees to be elected, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(c) If a member is to be elected to fill an unexpired term, the office shall be listed separately on the ballots. If there are more than three candidates for such unexpired term, the county election officer shall call, and there shall be held, a primary election. The names of the two candidates for such unexpired term receiving the greatest number of votes shall appear on the ballots in the general election. If there are three or fewer qualified candidates for the unexpired term of any member position, there shall not be a primary election and the names of the candidates shall be placed on the ballots in the general election.

(d) On the ballots in general college district elections, blank lines for the names of write-in candidates shall be printed at the end of the list of candidates for each different office. The number of blank lines for each elected office shall be equal to the number of candidates to be elected thereto. The purpose of such blank lines shall be to permit the voter to insert the name of any person *who is a qualified elector residing in the district and whose name is not printed on the ballot but for whom such voter desires to vote for such office*. No lines for write-in candidates shall appear on primary college district election ballots.

Sec. 65. K.S.A. 10-120, 15-809, 19-303, 19-804, 19-3419, 19-3422, 19-3439, 25-105, 25-203, 25-208a, 25-211, 25-213, 25-222, 25-303, 25-305, 25-305b, 25-308, 25-321, 25-432, 25-433, 25-604, 25-901, 25-1115, 25-1122, 25-1214, 25-1709, 25-1710, 25-1903, 25-2005, 25-2008, 25-2018, 25-2021, 25-21a02, 25-2310, 25-2502, 25-2507, 25-2601, 25-26a03, 25-2702, 25-2704, 25-2705, 25-2706, 25-2805, 25-2812, 25-2903, 25-2905, 25-3002, 25-3005, 25-3104, 25-3107, 25-3201, 25-3301, 25-3303, 25-

3304, 25-3801, 25-4004, 25-4005, 25-4148d, 25-4322, 25-4612, 25-4703, 25-4709 and 71-1415 and K.S.A. 2022 Supp. 19-3424, 25-3009 and 25-4414 are hereby repealed.

Sec. 66. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 24, 2023.

CHAPTER 80

HOUSE BILL No. 2100

AN ACT concerning environmental, social and governance criteria involving public contracts and investments; enacting the Kansas public investments and contracts protection act; prohibiting the state or a political subdivision from giving preferential treatment to or discriminating against companies based on environmental, social and governance criteria in procuring or letting contracts; requiring fiduciaries of the Kansas public employees retirement system to act solely in the financial interest of participants and beneficiaries of the system; restricting state agencies from adopting environmental, social and governance criteria or requiring any person or business to operate in accordance with such criteria; providing for enforcement of such act by the attorney general; indemnifying the Kansas public employees retirement system with respect to actions taken in compliance with such act; amending K.S.A. 2022 Supp. 74-4921 and repealing the existing section.

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

New Section 1. (a) The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the Kansas public investments and contracts protection act.

(b) As used in this act:

(1) “Act” means the Kansas public investments and contracts protection act.

(2) “Board” means the board of trustees of the Kansas public employees retirement system.

(3) “Company” means any organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity of business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of such entities or business associations that exists for the purpose of making a profit. “Company” does not mean a sole proprietorship.

(4) “Environmental, social and governance criteria” means any criterion that gives preferential treatment or discriminates based on whether a company meets or fails to meet one or more of the following criteria:

(A) Engaging in the exploration, production, utilization, transportation, sale or manufacturing of:

(i) Fossil fuel-based energy;

(ii) nuclear energy; or

(iii) any other natural resource;

(B) engaging in the production of agriculture;

(C) engaging in the production of lumber;

(D) engaging in mining;

(E) emitting greenhouse gases or not disclosing or offsetting such greenhouse gas emissions;

(F) engaging in the manufacturing, distribution or sale of firearms, firearms accessories, ammunition or ammunition components;

(G) having a governing corporate board or other officers whose race, ethnicity, sex or sexual orientation meets or does not meet any criteria;

(H) facilitating or assisting or not facilitating or assisting employees in obtaining abortions or gender reassignment services; and

(I) doing business with any company described by subparagraphs (A) through (H).

(5) “Fiduciary” means any person acting on behalf of the board or system as an investment manager, proxy advisor or contractor, including the system’s board of trustees.

(6) “Fiduciary commitment” means any evidence of a fiduciary’s purpose in managing assets as a fiduciary, including, but not limited to, any of the following in a fiduciary’s capacity as a fiduciary, specifically on assets managed on behalf of the system:

(A) Advertisements, statements, explanations, reports, communications with portfolio companies, statements of principles or commitments; or

(B) participation in, affiliation with or status as a signatory to any coalition, initiative, joint statement of principles or agreement.

(7) (A) “Financial” means having been prudently determined by a fiduciary to have a material effect on the financial risk or the financial return of an investment.

(B) “Financial” does not include any action taken or factor considered by a fiduciary with any purpose whatsoever to further social, political or ideological interests.

(C) A fiduciary may reasonably be determined to have taken an action or considered a factor with a purpose to further social, political or ideological interests based upon evidence indicating such a purpose, including, but not limited to, any fiduciary commitment to further, through portfolio company engagement, board or shareholder votes or otherwise as a fiduciary, any of the following beyond what controlling federal or state law requires, specifically on assets managed on behalf of the system:

(i) Eliminating, reducing, offsetting or disclosing greenhouse gas emissions;

(ii) instituting or assessing corporate board, employment, composition, compensation or disclosure criteria that incorporates characteristics protected under state law;

(iii) divesting from, limiting investment in or limiting the activities or investments of any company for failing or not committing to meet environmental standards or disclosures;

(iv) accessing abortion, sex or gender change or transgender surgery; or

(v) divesting from, limiting investment in or limiting the activities or investments of any company that engages in, facilitates or supports the

manufacture, import, distribution, marketing, advertising, sale or lawful use of firearms, ammunition or component parts and accessories of firearms or ammunition.

(8) “Fossil fuels” means coal, natural gas, petroleum or oil formed by natural processes through decomposition of dead organisms.

(9) “Natural resources” means fossil fuels, minerals, metal ores or any other nonrenewable or finite resource that cannot be readily replaced by natural means at the speed at which it is consumed.

(10) “System” means the Kansas public employees retirement system. “System” does not include participant-directed individual account plans.

New Sec. 2. (a) The state, any agency of the state, any political subdivision of the state, or any instrumentality thereof, including the pooled money investment board established by K.S.A. 75-4221a, and amendments thereto, when engaged in procuring or letting contracts for any purpose, shall ensure that bidders, offerors, contractors or subcontractors are not given preferential treatment or discriminated against based on any environmental, social and governance criteria.

(b) The state, any agency of the state, any political subdivision of the state or any instrumentality thereof, including the pooled money investment board established by K.S.A. 75-4221a, and amendments thereto, shall not adopt any procurement regulation or policy that causes any bidder, offeror, contractor or subcontractor to be given preferential treatment or be subject to discrimination based on any environmental, social and governance criteria, except as otherwise specifically permitted or required by law.

New Sec. 3. (a) In making and supervising investments of the system, the system and any investment manager, proxy advisor or contractor thereof shall discharge its duties solely in the financial interest of the participants and beneficiaries for the exclusive purposes of:

(1) Providing financial benefits to participants and their beneficiaries; and

(2) defraying reasonable expenses of administering the system.

(b) An investment manager, proxy advisor or contractor retained by the system shall be subject to the same fiduciary duties as the system’s board of trustees.

(c) A fiduciary shall consider only financial factors when discharging such fiduciary’s duties with respect to the system.

(d) All shares held directly or indirectly by or on behalf of the system or the participants and their beneficiaries shall be voted solely in the financial interest of system participants and their beneficiaries.

(e) Unless no economically practicable alternative is available, the system shall not grant proxy voting authority to any person who is not a part of the system, unless such person has a practice of, and in writing

commits to, following guidelines that match the system's obligation to act solely upon financial factors, in which case the system may grant proxy voting authority to such person.

(f) Unless no economically practicable alternative is available, in the selection of any proxy advisor, the system shall give preference to a proxy advisor service that commits in writing to engage in voting shares and making recommendations in a strictly fiduciary manner, and without consideration of policy objectives that are not the express policy objectives of the system, in which case the system may engage a proxy voting advisor.

(g) Unless no economically practicable alternative is available, system assets shall not be entrusted to a fiduciary, unless such fiduciary has a practice of, and in writing commits to, following guidelines, when engaging with portfolio companies and voting shares or proxies, that follow the system's obligation to act solely upon financial factors and not upon policy considerations that are not the express policy objectives of the system, in which case the system may entrust engagement and share voting to a fiduciary.

(h) Unless no economically practicable alternative is available, an investment manager or contractor shall not, in providing service for the system, follow the recommendations of a proxy advisor or other service provider, unless such advisor or service provider has a practice of, and in writing commits to, following proxy voting guidelines that follow the system's obligation to act solely upon financial factors, in which case the investment manager or contractor may follow the recommendations of a proxy or other service advisor.

(i) All proxy votes shall be tabulated and reported annually to the system's board of trustees and to the joint committee on pensions, investments and benefits. For each vote, the report shall contain a vote caption, the system's vote, the recommendation of company management and, if applicable, the proxy advisor's recommendation. Such reports shall be posted on the system's website for review by the public.

(j) Subsections (e) through (i) shall apply only to assets managed on behalf of the system and shall not apply to alternative or real estate investments as defined in K.S.A. 74-4921(5), and amendments thereto.

New Sec. 4. (a) As used in this section, "state agency" means an office, board, commission, department, council, bureau, governmental entity or other agency of state government having authority to adopt or enforce rules and regulations.

(b) No state agency shall share or publish information, adopt policies, adopt rules and regulations or issue guidelines for purposes of environmental, social and governance criteria that restrict the ability of any industry to offer products or services. No state agency shall require any person or business to adopt or operate in accordance with environmental, social and governance criteria.

New Sec. 5. (a) This act or any contract subject to this act may be enforced by the attorney general.

(b) If the attorney general has reasonable cause to believe that a person has engaged in, is engaging in or is about to engage in a violation of this act, the attorney general may require:

(1) Such person to file on such forms as the attorney general may prescribe a statement or report in writing, under oath, as to all the facts and circumstances concerning the violation; and

(2) the filing of such other data and information as the attorney general may deem necessary.

(c) In addition to any other remedies available at law or equity, an investment manager or contractor of the system that serves as a fiduciary and violates the provisions of section 3, and amendments thereto, shall be obligated to pay damages to the state in an amount equal to three times all moneys paid to the investment manager or contractor by the system for the services of such investment manager or contractor.

New Sec. 6. In a cause of action based on an action, inaction, decision, divestment, investment, report or other determination made or taken in compliance with this act, without regard to whether the person performed services for compensation, the state shall indemnify and hold harmless for actual damages, court costs and attorney fees adjudged against, and defend the system and any of its current and former employees, members of the board or any other officers of the system related to the act or omission on which the damages are based.

Sec. 7. K.S.A. 2022 Supp. 74-4921 is hereby amended to read as follows: 74-4921. (1) There is hereby created in the state treasury the Kansas public employees retirement fund. All employee and employer contributions shall be deposited in the state treasury to be credited to the Kansas public employees retirement fund. The fund is a trust fund and shall be used solely for the exclusive purpose of providing benefits to members and member beneficiaries and defraying reasonable expenses of administering the fund. Investment income of the fund shall be added or credited to the fund as provided by law. All benefits payable under the system, refund of contributions and overpayments, purchases or investments under the law and expenses in connection with the system unless otherwise provided by law shall be paid from the fund. The director of accounts and reports is authorized to draw warrants on the state treasurer and against such fund upon the filing in the director's office of proper vouchers executed by the chairperson or the executive director of the board. As an alternative, payments from the fund may be made by credits to the accounts of recipients of payments in banks, savings and loan associations and credit unions. A payment shall be so made only upon the written authorization and direction of the recipient of payment and upon receipt of

such authorization such payments shall be made in accordance therewith. Orders for payment of such claims may be contained on:

(a) A letter, memorandum, telegram, computer printout or similar writing; or

(b) any form of communication, other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(2) The board shall have the responsibility for the management of the fund and shall discharge the board's duties with respect to the fund solely in the interests of the members and beneficiaries of the system for the exclusive purpose of providing benefits to members and such member's beneficiaries and defraying reasonable expenses of administering the fund and shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this section.

(3) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide benefits to members and member beneficiaries, as provided by law and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if ~~the sole or primary~~ *any* investment objective is for economic development or social purposes or objectives.

(4) In investing and reinvesting moneys in the fund and in acquiring, retaining, managing and disposing of investments of the fund, the board shall exercise the judgment, care, skill, prudence and diligence under the circumstances then prevailing, which persons of prudence, discretion and intelligence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims by diversifying the investments of the fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, and not in regard to speculation but in regard to the permanent disposition of similar funds, considering the probable income as well as the probable safety of their capital.

(5) Notwithstanding subsection (4):

(a) Total investments in common stock may be made in the amount of up to 60% of the total book value of the fund;

(b) the board may invest or reinvest moneys of the fund in alternative investments if the following conditions are satisfied:

(i) The total of the annual net commitment to alternative investments does not exceed 5% of the total market value of investment assets of the fund as measured from the end of the preceding calendar year;

(ii) if in addition to the system, there are at least two other qualified institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities act of 1933;

(iii) the system's share in any individual alternative investment is limited to an investment representing not more than 20% of any such individual alternative investment;

(iv) the system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of alternative investment;

(v) the alternative investment is consistent with the system's investment policies and objectives as provided in subsection (6);

(vi) the individual alternative investment does not exceed more than 2.5% of the total alternative investments made under this subsection. If the alternative investment is made pursuant to participation by the system in a multi-investor pool, the 2.5% limitation contained in this subsection is applied to the underlying individual assets of such pool and not to investment in the pool itself. The total of such alternative investments made pursuant to participation by the system in any one individual multi-investor pool shall not exceed more than 20% of the total of alternative investments made by the system pursuant to this subsection. Nothing in this subsection requires the board to liquidate or sell the system's holdings in any alternative investments made pursuant to participation by the system in any one individual multi-investor pool held by the system on the effective date of this act, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and be prudent under the standards contained in this section. The 20% limitation contained in this subsection shall not have been violated if the total of such investment in any one individual multi-investor pool exceeds 20% of the total alternative investments of the fund as a result of market forces acting to increase the value of such a multi-investor pool relative to the rest of the system's alternative investments; however, the board shall not invest or reinvest any moneys of the fund in any such individual multi-investor pool until the value of such individual multi-investor pool is less than 20% of the total alternative investments of the fund;

(vii) the board has received and considered the investment manager's due diligence findings submitted to the board as required by subsection ~~(6)(e)~~ (6);

(viii) prior to the time the alternative investment is made, the system has in place procedures and systems to ensure that the investment is properly monitored and investment performance is accurately measured; and

(ix) the total of alternative investments does not exceed 15% of the total investment assets of the fund. The 15% limitation contained in this

subsection shall not have been violated if the total of such alternative investments exceeds 15% of the total investment assets of the fund, based on the fund total market value, as a result of market forces acting to increase the value of such alternative investments relative to the rest of the system's investments. However, the board shall not invest or reinvest any moneys of the fund in alternative investments until the total value of such alternative investments is less than 15% of the total investment assets of the fund based on the market value. If the total value of the alternative investments exceeds 15% of the total investment assets of the fund, the board shall not be required to liquidate or sell the system's holdings in any alternative investment held by the system, unless such liquidation or sale would be in the best interest of the members and beneficiaries of the system and is prudent under the standards contained in this section;

(c) for purposes of this ~~act~~ *section*, "alternative investment" includes a broad group of investments that are not one of the traditional asset types of public equities, fixed income, cash or real estate. Alternative investments are generally made through limited partnership or similar structures, are not regularly traded on nationally recognized exchanges and thus are relatively illiquid, and exhibit lower correlations with more liquid asset types such as stocks and bonds. Alternative investments generally include, but are not limited to, private equity, private credit, hedge funds, infrastructure, commodities and other investments ~~which~~ *that* have the characteristics described in this paragraph; and

~~(e)~~(d) except as otherwise provided, the board may invest or reinvest moneys of the fund in real estate investments if the following conditions are satisfied:

(i) The system has received a favorable and appropriate recommendation from a qualified, independent expert in investment management or analysis in that particular type of real estate investment;

(ii) the real estate investment is consistent with the system's investment policies and objectives as provided in subsection (6); and

(iii) the system has received and considered the investment manager's due diligence findings.

(6) (a) Subject to the objective set forth in subsection (3) and the standards set forth in subsections (4) and (5) the board shall formulate policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall include:

~~(a)~~(i) Specific asset allocation standards and objectives;

~~(b)~~(ii) establishment of criteria for evaluating the risk versus the potential return on a particular investment;

~~(c)~~(iii) a requirement that all investment managers submit such manager's due diligence findings on each investment to the board or invest-

ment advisory committee for approval or rejection prior to making any alternative investment;

~~(d)~~(iv) a requirement that all investment managers shall immediately report all instances of default on investments to the board and provide the board with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment; and

~~(e)~~(v) establishment of criteria that would be used as a guideline for determining when no additional add-on investments or reinvestments would be made and when the investment would be liquidated.

(b) The board shall review such policies and objectives, make changes considered necessary or desirable and readopt such policies and objectives on an annual basis.

(7) The board may enter into contracts with one or more persons whom the board determines to be qualified, whereby the persons undertake to perform the functions specified in subsection (2) to the extent provided in the contract. Performance of functions under contract so entered into shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts and shall be based on specific contractual fee arrangements. The system shall not pay or reimburse any expenses of persons contracted with pursuant to this subsection, except that after approval of the board, the system may pay approved investment related expenses subject to provisions of appropriation acts. The board shall require that a person contracted with to obtain commercial insurance which provides for errors and omissions coverage for such person in an amount to be specified by the board, provided that such coverage shall be at least the greater of \$500,000 or 1% of the funds entrusted to such person up to a maximum of \$10,000,000. The board shall require a person contracted with to give a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the board, with corporate surety authorized to do business in this state. Such persons contracted with the board pursuant to this subsection and any persons contracted with such persons to perform the functions specified in subsection (2) shall be deemed to be agents of the board and the system in the performance of contractual obligations.

(8) (a) In the acquisition or disposition of securities, the board may rely on the written legal opinion of a reputable bond attorney or attorneys, the written opinion of the attorney of the investment counselor or managers, or the written opinion of the attorney general certifying the legality of the securities.

(b) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(9) (a) Except as provided in subsection (7) and this subsection, the custody of money and securities of the fund shall remain in the custody

of the state treasurer, except that the board may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale. The services provided by the banks or trust companies shall be paid pursuant to rates fixed by the board subject to provisions of appropriation acts.

(b) The state treasurer and the board shall collect the principal and interest or other income of investments or the proceeds of sale of securities in the custody of the state treasurer and pay same when so collected into the fund.

(c) The principal and interest or other income or the proceeds of sale of securities as provided in ~~clause (a) of this subsection (9)~~ shall be reported to the state treasurer and the board and credited to the fund.

(10) The board shall with the advice of the director of accounts and reports establish the requirements and procedure for reporting any and all activity relating to investment functions provided for in this act in order to prepare a record monthly of the investment income and changes made during the preceding month. The record will reflect a detailed summary of investment, reinvestment, purchase, sale and exchange transactions and such other information as the board may consider advisable to reflect a true accounting of the investment activity of the fund.

(11) The board shall provide for an examination of the investment program annually. The examination shall include an evaluation of current investment policies and practices and of specific investments of the fund in relation to the objective set forth in subsection (3), the standard set forth in subsection (4) and other criteria as may be appropriate, and recommendations relating to the fund investment policies and practices and to specific investments of the fund as are considered necessary or desirable. The board shall include in its annual report to the governor as provided in K.S.A. 74-4907, and amendments thereto, a report or a summary thereof covering the investments of the fund.

~~(12)-(a)~~ Any internal assessment or examination of alternative investments of the system performed by any person or entity employed or retained by the board which evaluates or monitors the performance of alternative investments shall be reported to the legislative post auditor so that such report may be reviewed in accordance with the annual financial-compliance audits conducted pursuant to K.S.A. 74-49,136, and amendments thereto.

~~(b)~~ The board shall prepare and submit an alternative investment report to the joint committee on pensions, investments and benefits prior to January 1, 2016. Such report shall include a review of alternative in-

~~vestments of the system with an emphasis on the effects of changes in law pursuant to this act and includes specific investment cost and market value information of each individual alternative investment.~~

Sec. 8. K.S.A. 2022 Supp. 74-4921 is hereby repealed.

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

Allowed to become law without signature.

CHAPTER 81

HOUSE BILL No. 2292*

AN ACT concerning economic development; relating to workforce development programs to be administered by the secretary of commerce; enacting the Kansas apprenticeship act to promote and expand apprenticeships with Kansas businesses, nonprofit organizations, healthcare organizations and public schools by providing grants and tax credits for businesses, nonprofit organizations and healthcare organizations that offer apprenticeships and providing scholarship grants to aspiring teachers to obtain their professional degrees; promoting and expanding public and private professional engineering programs by providing matching grants for engineering student scholarships and other program development and expansion costs; creating the Kansas nonprofit apprenticeship grant program fund, the Kansas educator registered apprenticeship grant program fund and the engineering graduate incentive fund to be administered by the secretary of commerce.

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

Section 1. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the Kansas apprenticeship act.

Sec. 2. For purposes of sections 1 through 6, and amendments thereto:

- (a) “Act” means the Kansas apprenticeship act.
- (b) “Apprentice” means a person who is a Kansas resident at least 16 years of age, except where an older minimum age standard is otherwise fixed by law, and is employed in Kansas to learn an apprenticeable occupation as defined in 29 C.F.R. § 29.4. “Apprenticeship” includes a person who is compensated by a registered apprenticeship sponsor or a registered apprenticeship intermediary but whose apprenticeable work occurs under the supervision of an eligible employer.
- (c) “Apprenticeship agreement” means a written agreement, meeting the requirements of 29 C.F.R. § 29.2, between an apprentice and either the apprentice’s registered program sponsor or an apprenticeship intermediary acting as an agent for the program sponsor, that contains the terms and conditions of the employment and training of the apprentice.
- (d) “Apprenticeship program” means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 29 C.F.R. § 29.4 and 29 CFR § 30, including such matters as the requirement for a written apprenticeship agreement.
- (e) “Eligible employer” means a business with a physical location in Kansas, authorized to conduct business in Kansas and subject to the Kansas income tax act that employs or supervises the work of an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship program. “Eligible employer” may include, but not be limited to, a for-profit eligible healthcare employer.

(f) “Eligible nonprofit employer” means an organization that is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, with a physical location in Kansas and registered, if required by law, with the secretary of state that employs or supervises the work of an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship program. “Eligible nonprofit employer” may include, but not be limited to, a nonprofit eligible healthcare employer.

(g) “Eligible healthcare employer” means a hospital, long-term care facility or federally qualified healthcare center with a physical location in Kansas that is engaged in providing healthcare to Kansas residents and that employs or supervises the work of an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship program.

(h) “Intermediary” means any person, association, business, committee or organization acting as an agent for the program sponsor, pursuant to a registered apprenticeship plan, who has registered with the secretary.

(i) “Registered apprenticeship agreement” means an apprenticeship agreement that has been accepted and recorded by the office of apprenticeship of the employment and training administration of the United States department of labor or the secretary as evidence of the apprentice’s participation in a particular registered apprenticeship program.

(j) “Registered apprenticeship program” means an apprenticeship program that has been accepted and recorded by the office of apprenticeship of the employment and training administration of the United States department of labor or has been registered or approved by the secretary as meeting the basic standards and requirements of the United States department of labor for approval of such program.

(k) “Secretary” means the secretary of commerce or the secretary’s designee, including the director of the office of registered apprenticeship or any successor, designated by the secretary of commerce to administer the provisions of this act.

(l) “Sponsor” means any person, association, business, committee or organization operating a registered apprenticeship program in whose name the program is registered or approved and who has registered with the secretary.

Sec. 3. (a) (1) For tax years commencing after December 31, 2022, and ending before January 1, 2026, a credit shall be allowed against the income tax liability imposed upon an eligible employer pursuant to the Kansas income tax act that employs an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship plan for at least all or a portion of the probationary period, as defined for that apprenticeship in the registered apprenticeship program standards, work

process schedule otherwise known as appendix A or as designated by the secretary, and so employs the apprentice at the time such probationary period is completed. The tax credit shall be claimed by such eligible employer for the taxable year in which the apprentice completed the probationary period while employed by such eligible employer or the taxable year next succeeding the calendar year in which the apprentice completed the probationary period while employed by such eligible employer, as determined by the secretary and set forth in the agreement with the secretary pursuant to subsection (d). Subsequent credits may be claimed for up to three successive calendar years, or portions thereof, next succeeding the date on which the probationary period of the apprentice was met, by any eligible employer who subsequently employs such apprentice in all or a portion of such year. Such credit shall be claimed by the eligible employer for the taxable year in which the apprentice was employed or the taxable year next succeeding the calendar year in which the apprentice was employed as determined by the secretary and set forth in the agreement with the secretary as provided by subsection (d). The amount of the credit shall be up to \$2,500, as determined pursuant to paragraph (2), for each apprentice so employed and may be awarded for up to 20 apprentices employed in each taxable year per eligible employer. The credit shall not be awarded for employment of the same apprentice more than four times.

(2) The secretary of revenue, in consultation with the secretary, shall establish a scale reflecting ranges of wages and other expenditures an eligible employer has invested in an apprentice and a corresponding tax credit amount and shall award the tax credit in accordance with the scale. The credit shall be approved and issued pursuant to subsection (d).

(b) For tax years commencing after December 31, 2025, a credit shall be allowed against the income tax liability imposed upon an eligible employer pursuant to the Kansas income tax act that employs an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship plan for a continuous period of time constituting at least 25% of the apprenticeship time period required by the registered apprenticeship program. The credit shall be taken in the tax year next succeeding the calendar year in which the employment requirement to claim the credit is met. The credit may subsequently be taken in successive tax years based on up to a cumulative total of four successive calendar years of employment for an individual apprentice. The amount of the credit shall be up to \$2,750 for each apprentice employed, not to exceed 20 such credits for apprenticeships in any taxable year per eligible employer. The secretary may authorize a credit for employment of less than a full calendar year pursuant to rules and regulations adopted by the secretary of commerce. The credit shall be approved and issued pursuant to subsection (d).

(c) (1) An eligible employer may be allowed a credit as provided by paragraph (2) that shall be in addition to a credit allowed for an apprentice pursuant to subsection (b) if the apprentice:

(A) Is enrolled in a secondary or postsecondary career and technical education program;

(B) is under 18 years of age at the time the credit is claimed;

(C) has been employed by the eligible employer for at least 90 days; and

(D) is participating in:

(i) An apprenticeship program registered with the secretary and funded through the Carl D. Perkins career and technical education act of 2006, public law 109-270, as revised by the strengthening career and technical education for the 21st century act, public law 115-224;

(ii) an adult basic education and literacy program funded under title II of the workforce innovation and opportunity act, public law 113-128; or

(iii) a public workforce program funded under title I and title III of the workforce innovation and opportunity act, public law 113-128.

(2) Each such credit shall not exceed \$500. The tax credit shall be claimed in the taxable year next succeeding the calendar year in which the requirements to claim the credit are met. An eligible employer shall not claim more than 10 credits under this subsection in a tax year. The credit shall be approved and issued pursuant to subsection (d).

(d) (1) Tax credits pursuant to subsections (a), (b) and (c) shall not be refundable or transferable. The credits may be claimed on a pro-rata basis by the owners of eligible employers that are entities taxed under subchapter S or K of the federal internal revenue code, limited liability companies or professional corporations authorized to do business in this state. The aggregate amount of all tax credits for all eligible employers issued pursuant to this section shall not exceed \$7,500,000 each taxable year. The aggregate amount of all tax credits for all eligible employers issued pursuant to this section in addition to all grants awarded pursuant to section 4, and amendments thereto, shall not exceed \$10,000,000 each taxable year.

(2) To be eligible for a tax credit under this section, the eligible employer shall enter into an agreement regarding the employment of apprentices with the secretary on such terms and conditions as the secretary may require. The agreement shall set forth the amount per credit or amount of cumulative credits an employer may earn based on specified conditions or attainment of specified employment or training goals and any other conditions for such credits consistent with the purposes of this act. If applicable, the agreement shall set forth the relevant provisions of the scale provided by subsection (a)(2). The agreement shall also require that the eligible employer provide such information as required by the secretary or the secretary of revenue for purposes of substantiating eligibility for

the tax credit, the development and expansion of apprenticeships in this state and the report required by subsection (g). Such agreements shall be made by the secretary with the goal of developing and expanding apprenticeships in this state. The secretary shall advise the secretary of revenue of the potential tax credits available to the eligible employer. The secretary shall consult with the secretary of revenue, the Kansas postsecondary technical education authority and educational institutions, technical schools, secondary schools, business or industry associations and other appropriate entities to coordinate implementation, administration and development of apprenticeship programs in this state, including through the use of tax credits as provided by this section.

(3) If an agreement as required by paragraph (2) is approved by the secretary, the eligible employer shall submit such information in the manner and form as required by the secretary and the secretary of revenue to demonstrate eligibility for the credit each tax year a credit is claimed. No tax credit shall be awarded by the secretary of revenue unless the secretary of commerce has certified the eligible employer to the secretary of revenue as having met the requirements for such credit pursuant to this section and in compliance with all federal and state requirements for the registered apprenticeship program and registered apprenticeship agreement. To receive a credit, the eligible employer shall also meet the requirements of any rules and regulations of the secretary of revenue or the secretary of commerce.

(e) The participation of an employee with an apprenticeship program under this act and registration with the secretary shall not constitute union affiliation, unless the employee expressly elects to affiliate with a union.

(f) The secretary of commerce or the secretary of revenue may adopt rules and regulations as necessary to establish standards for participation and eligibility and to implement and administer this act.

(g) The secretary shall provide an annual report before January 31 of each year to the house of representatives standing committee on commerce, labor and economic development and the senate standing committee on commerce to account for the effectiveness of the apprenticeship program under this act. The report shall include information regarding the number and type of eligible employers, eligible nonprofit employers and eligible healthcare employers the number and type of apprenticeships incentivized, the amount of tax credits and grants issued and the amounts issued per industry and per eligible employer, eligible nonprofit employers and eligible healthcare employers results of the program including information on the employment of individuals following participation in an apprenticeship program, the extent and nature of coordination and efforts with other entities to develop apprenticeship programs, the effect of such efforts and the tax credits

and grants on apprenticeship program development and such other information as requested by the respective committees.

Sec. 4. (a) There is hereby established the Kansas nonprofit apprenticeship grant program. The secretary is authorized to develop and administer the program to award grants to eligible nonprofit employers and eligible nonprofit healthcare employers that employ an apprentice pursuant to a registered apprenticeship agreement and in accordance with a registered apprenticeship plan for the purpose of covering administrative costs of registered apprenticeship programs, including program development costs, costs of meeting reporting obligations and other administrative costs. To be eligible for such grants, an eligible nonprofit employer or eligible nonprofit healthcare employer shall enter into an agreement with the secretary to employ an apprentice for at least the same period of time as provided under section 3(a)(1) or (b), and amendments thereto, as applicable at the time the apprentice is employed, for an eligible employer to receive a tax credit. As provided for eligible employers by section 3(b), and amendments thereto, the secretary may authorize employment of an apprentice for less than a full year.

(b) Grants shall be awarded by the secretary in an amount of up to \$2,750 per apprenticeship per taxable year, as determined by the secretary and set forth in the agreement pursuant to subsection (d), not to exceed four successive years. Grants shall be limited to not more than 20 per eligible nonprofit employer or per eligible nonprofit healthcare employer per taxable year.

(c) The secretary shall develop application procedures, forms and grant award terms, conditions and criteria in accordance with the purposes of the grant program. The secretary shall consult with appropriate state agencies, institutions, nonprofit organizations and associations, private healthcare associations, nonprofit Kansas healthcare providers and other appropriate entities in developing the grant program and grant award criteria and priorities. Grants shall be awarded pursuant to an agreement with the eligible nonprofit employer or eligible nonprofit healthcare employer upon such terms and conditions as the secretary may require consistent with the purposes of the program. Such terms and conditions may include program development, employment or training goals in addition to specified employment requirements with respect to an apprentice or apprentices.

(d) There is hereby established in the state treasury the Kansas nonprofit apprenticeship grant program fund to be administered by the secretary of commerce. All moneys credited to such fund shall be used to provide grants for the administration of apprenticeship programs by eligible nonprofit employers and eligible nonprofit healthcare employers in the state of Kansas as provided by this section and the administration of such fund. All expenditures from such fund shall be made in accordance

with the provisions of appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the secretary's designee.

(e) Subject to appropriation acts, on July 1, 2023, and each July 1 thereafter, the director of accounts and reports shall transfer \$2,500,000 from the state general fund to the Kansas nonprofit apprenticeship grant program fund. Any unencumbered balance in such fund at the end of a fiscal year shall remain credited to the fund for use in the succeeding fiscal year, except that such unencumbered balance at the end of the fiscal year to remain credited to the fund for use in the succeeding fiscal year shall not exceed \$2,500,000. On June 30, 2024, and each June 30 thereafter, the director of accounts and reports shall transfer the amount, if any, of unencumbered moneys in the fund in excess of \$2,500,000 to the state general fund. The amount of all tax credits issued to all eligible employers pursuant to section 3, and amendments thereto, in addition to the amount of all grants issued pursuant to this section, shall not exceed a total aggregate amount of \$10,000,000 in each taxable year, as provided by section 3(d)(1), and amendments thereto.

Sec. 5. For purposes of sections 5 and 6, and amendments thereto:

(a) "Applicant school" means a school district organized and operating under the laws of this state, acting independently or as part of a consortia with other school districts that seeks to engage in a registered education apprenticeship program.

(b) "Candidate" means a paraeducator or other person employed by a school district who seeks to become a licensed teacher and who currently does not possess such a license.

(c) "Education apprentice" means a person who is a Kansas resident at least 16 years of age, except where an older minimum age standard is otherwise fixed by law, is a candidate, has been selected to participate in a registered education apprenticeship program by an applicant school and is employed to learn the apprenticeable occupation, as defined in 29 C.F.R. § 29.4, of teaching.

(d) "Eligible related training instruction provider" means an institution of higher education that provides a teacher preparation program and is:

(1) A state educational institution under the control and supervision of the board of regents;

(2) a municipal university;

(3) any not-for-profit institution of postsecondary education with its main campus or principal place of operation in Kansas, is operated independently and not controlled or administered by any state agency or subdivision of the state, maintains open enrollment and is accredited by a nationally recognized accrediting agency for higher education in the United States; or

(4) a not-for-profit independent institution of higher education which is accredited by an institutional accrediting agency recognized by the United States department of education, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment, offers online education, offers exclusively competency-based education programs and has been granted accreditation for its teacher licensure programs by the council for the accreditation of educator preparation and the association for advancing quality in educator preparation.

(e) “Registered education apprenticeship program” means an apprenticeship program, as defined in section 1, and amendments thereto, that is a registered apprenticeship program, as defined in section 1, and amendments thereto, of an applicant school for the profession of teaching that provides candidates combined classroom and on the job training under the direct supervision of a licensed professional teacher and has been approved by the secretary.

(f) “Secretary” means the secretary of commerce or the secretary’s designee, including the director of the office of registered apprenticeship or any successor, designated by the secretary to administer the provisions of this act.

Sec. 6. (a) There is hereby established the Kansas educator registered apprenticeship grant program. The commissioner of education, state board of education and the secretary shall coordinate to develop the program and obtain such necessary approval and registration of education apprenticeship programs as provided by federal and state law. The secretary shall administer the grant program.

(b) The Kansas educator registered apprenticeship program shall be established to award grants to education apprentices for tuition, fees, books and materials to obtain their postsecondary degrees for the purpose of increasing the number of qualified, credentialed teachers in the state of Kansas. The program shall seek to identify a diverse group of candidates to participate as education apprentices in a registered education apprenticeship program or programs and obtain a bachelor’s degree in education, secure licensure and engage in the profession of teaching in Kansas. Grants shall be awarded by the secretary upon approval of the registered education apprenticeship program of an applicant school by the secretary as compliant with all applicable federal and state law.

(c) On or before March 1, 2024, the state board of education and the secretary shall coordinate to adopt rules and regulations to implement and administer the Kansas educator registered apprenticeship grant program. Such rules and regulations shall establish:

(1) Application procedures, forms and terms and conditions and requirements for an award of a Kansas educator registered apprenticeship program grant to an education apprentice by the secretary;

(2) the terms, conditions and requirements for acceptance by the secretary of an applicant school into the Kansas educator registered apprenticeship program. The applicant school's registered education apprenticeship program design shall include the following requirements:

(A) Applicant schools shall partner with at least one eligible related training instruction provider and identify such provider in their application; and

(B) applicant schools shall identify projected candidates in the manner designated by the secretary of commerce and the state board with appropriate protections for candidate privacy;

(3) grant funds shall be used for payment of education apprentice tuition, fees and the cost of books and materials up to a maximum of \$2,750 per year for four years, or completion of their academic program, whichever comes first;

(4) prioritization for applications from applicant schools partnering with eligible related training instruction providers that permit the apprentice to continue their current employment by utilizing flexible learning models such as online delivery, competency-based education or courses offered on nights or weekends; and

(5) a method to award grants equitably across the state geographically.

(d) The commissioner of education, the state board of education and the secretary shall, beginning in 2025, annually evaluate the Kansas educator registered apprenticeship program grant and prepare and submit a report before January 31, 2026, and before January 31 of each year thereafter, to the senate standing committee on education and the standing committee on commerce and to the house of representatives standing committee on education and the standing committee on commerce, labor and economic development.

(e) Subject to appropriation acts, on July 1, 2023, and each July 1 thereafter, the director of accounts and reports shall transfer \$3,000,000 from the state general fund to the Kansas educator registered apprenticeship grant program fund. Any unencumbered balance in such fund at the end of a fiscal year shall remain credited to the fund for use in the succeeding fiscal year, except that the amount of such unencumbered balance at the end of the fiscal year to remain credited to the fund for use in the succeeding fiscal year shall not exceed \$3,000,000. On June 30, 2024, and each June 30 thereafter, the director of accounts and reports shall transfer the amount, if any, of unencumbered moneys in the fund in excess of \$3,000,000 to the state general fund.

(f) There is hereby created in the state treasury the Kansas educator registered apprenticeship grant program fund, which shall be administered by the secretary. All expenditures from the Kansas educator registered apprenticeship grant program fund shall be for grants awarded pursuant to the Kansas educator registered apprenticeship grant pro-

gram. All expenditures from the Kansas educator registered apprenticeship grant program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary, or the secretary's designee. All moneys received by the secretary for the Kansas educator registered apprenticeship grant program shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas educator registered apprenticeship grant program fund.

Sec. 7. As used in this section and section 8, and amendments thereto:

(a) "Eligible institution of higher education" means:

(1) (A) A state educational institution as defined in K.S.A. 76-711, and amendments thereto; or

(B) any private, independent college with its primary location in Kansas that is a member of the Kansas independent college association as of July 1, 2023; and

(2) that has an engineering program accredited by the accreditation board for engineering and technology.

(b) "Engineering program" or "accredited engineering program" means an engineering program accredited by the accreditation board for engineering and technology and includes, but is not limited to, a program in computer engineering or computer science.

(c) "Qualified eligible institution of higher education" means an eligible institution of higher education that has certified to the secretary that, in the immediately preceding academic year, at least the following number of students have graduated with baccalaureate degrees from an engineering program or programs with respect to each institution:

(1) Kansas state university, 586 graduates;

(2) university of Kansas, 419 graduates;

(3) Wichita state university, 360 graduates;

(4) any other state educational institution as defined in K.S.A. 76-711, and amendments thereto, with an accredited engineering program, one or more graduates; and

(5) private, independent colleges, one or more graduates.

(d) "Secretary" means the secretary of commerce.

Sec. 8. (a) There is hereby created in the state treasury the engineering graduate incentive fund. The secretary of commerce shall administer the fund. All expenditures from the fund shall be for the purpose of promoting the development of accredited postsecondary engineering programs in Kansas by providing grants that shall be matched on a \$1-for-\$1 basis with funds from nonstate sources to qualified eligible institutions of higher education for:

- (1) Awarding scholarships to undergraduate students enrolled at such institutions in an engineering program;
- (2) recruiting undergraduate students for engineering programs offered by such institutions;
- (3) expanding the number of potential engineering students through engineering-related activities in secondary schools in Kansas;
- (4) funding internships for undergraduate students enrolled at such institutions in an engineering program;
- (5) making necessary facility improvements or equipment purchases to expand engineering program course offerings; or
- (6) hiring additional faculty or enhancing faculty salaries in such an institution's engineering program.

(b) Applications for matching grants shall be made by eligible institutions of higher education to the secretary in the form and manner required by the secretary. If the secretary determines the institution is a qualified eligible institution of higher education, finds the institution has sufficient nonstate funding to match the grant requested on a \$1-for-\$1 basis and approves the application, the qualified eligible institution of higher education shall receive a matching grant. If sufficient moneys are available in the engineering graduate incentive fund to fully fund all approved applications, the amount of the matching grant shall be at least \$20,000 for each graduate of an engineering program of the institution during the immediately preceding academic year, as determined by the secretary, in excess of the threshold requirement for qualification as a qualified eligible institution of higher education pursuant to section 7, and amendments thereto. If sufficient moneys are not available in the engineering graduate incentive fund to fully fund all approved applications in an amount of at least \$20,000 for each such graduate, the secretary shall award grants in a prorated amount so that all approved applicant qualified eligible educational institutions receive the same amount of grant money for a graduate in excess of such respective threshold. The secretary shall consult with and coordinate with eligible institutions of higher education, qualified eligible institutions of higher education, the state board of regents, or private industry in planning and developing uses for matching grant funding to achieve the purpose of this act.

(c) Qualified eligible institutions of higher education that receive a matching grant shall provide such information as requested by the secretary, excluding any information confidential under state or federal law, regarding the use of grant funds. On or before January 10, 2024, and on or before the first day of each regular session of the legislature thereafter, the secretary shall provide a written report to the house of representatives standing committee on commerce, labor and economic development, or its successor committee, and the senate standing committee on

commerce, or its successor committee, on the amount and uses of grant funding by each qualified eligible educational institution of higher education that has received a matching grant and progress made toward the goal of this act.

(d) All expenditures from the engineering graduate fund shall be for the purposes described in subsection (a) and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the secretary's designee.

(e) No moneys appropriated to the engineering graduate incentive fund shall be expended for the acquisition or construction of any facilities.

(f) (1) On July 1, 2023, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$1,500,000 from the state general fund to the engineering graduate fund.

(2) On July 1, 2024, and on each July 1 thereafter, the secretary shall certify to the director of accounts and reports the amount of moneys expended for grants from the engineering graduate fund in the prior fiscal year. Upon receipt of such certification, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer from the state general fund to the engineering graduate fund an amount equal to twice the amount certified by the secretary of commerce, except that if such transfer would result in an unencumbered balance in the engineering graduate fund of greater than \$5,000,000, the director of accounts and reports shall transfer the amount of moneys that shall result in an unencumbered balance of \$5,000,000 in the engineering graduate fund on such date.

Sec. 9. The provisions of sections 7 through 9, and amendments thereto, shall expire on July 1, 2033. On July 1, 2033, the director of accounts and reports shall transfer all unencumbered moneys in the engineering graduate fund to the state general fund. After such transfer, the engineering graduate fund shall be abolished. Upon abolishment of such fund, all liabilities of the engineering graduate fund shall be transferred to and imposed on the state general fund.

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

Approved April 24, 2023.
