

**{As Amended by House Committee of the Whole}**

---

**As Amended by House Committee**

---

*Session of 2013*

**HOUSE BILL No. 2216**

By Committee on General Government Budget

2-5

1 AN ACT concerning joint committees; repealing certain joint committees;  
2 relating to membership on the joint committee on special claims against  
3 the state; amending K.S.A. 12-2015, 19-4109, 38-2007, 46-912, 71-212  
4 and 74-4907 and K.S.A. 2012 Supp. 39-7,162, ~~45-229, 46-2801~~, 65-  
5 1,251, 72-5395, 74-4908, 74-4909, 74-4920, 74-4921, 74-4921c, 74-  
6 4937, 74-49,129, 74-5001a, 74-5002s, 74-5049, 74-5097, 74-50,123,  
7 74-50,151, 74-50,216, 74-8004, 74-8135, 74-8136, 74-8204, 74-8310,  
8 74-8317, 74-8405, 74-99c07, ~~75-2264, 75-2268~~, 75-7423, 75-7427 and  
9 75-7435 and repealing the existing sections; also repealing K.S.A. 46-  
10 1604 and 46-2201 and K.S.A. 2012 Supp. 39-7,160, 39-7,161, 46-1801,  
11 46-3001, 46-3501, 46-3701, 74-49,132, 74-49,133 and 75-7425.

12

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

14 Section 1. K.S.A. 12-2015 is hereby amended to read as follows: 12-  
15 2015. Prior to July 1, 2002, all municipalities in the state of Kansas shall  
16 refrain from enacting or enforcing any franchise or right-of-way  
17 ordinances or agreements pursuant to chapters 12 and 17 of the Kansas  
18 Statutes Annotated, *and amendments thereto*, home rule powers, or any  
19 other authority, that substantially modify the relationship between  
20 telecommunications providers and municipalities as those relationships  
21 existed on January 1, 2001, except that municipalities may reach franchise  
22 or right-of-way ordinances or agreements with new telecommunications  
23 providers on terms and conditions consistent with the original provisions  
24 of ordinances or agreements between municipalities and other  
25 telecommunications providers in existence prior to December 31, 2000.  
26 ~~Subsequent to the effective date of this act, representatives of~~  
27 ~~municipalities and telecommunications providers shall confer and shall~~  
28 ~~provide to the joint committee on economic development at least three~~  
29 ~~progress reports of their discussions prior to December 31, 2001.~~

30 Sec. 2. K.S.A. 19-4109 is hereby amended to read as follows: 19-  
31 4109. (a) The secretary shall transmit annually to the governor, the  
32 standing committee on commerce of the senate, *and* the standing  
33 committee on *commerce, labor and* economic development of the house of  
34 representatives ~~and the joint committee on economic development~~, a

1 report, based upon information received from each qualified manufacturer  
2 for which benefits have been issued during the preceding year, describing  
3 the following: (1) The manner in which the purpose, as described in this  
4 act, has been carried out;

5 (2) an estimate of jobs created and jobs preserved by cash  
6 investments made in qualified manufacturers; and

7 (3) an estimate of the multiplier effect on the Kansas economy of the  
8 cash investments made pursuant to this act.

9 (b) The secretary shall conduct an annual review of the activities  
10 undertaken pursuant to this act to ensure that benefits issued pursuant to  
11 this act are issued in compliance with the provisions of this act or rules and  
12 regulations promulgated by the department with respect to this act.

13 (c) Any violation of the reporting requirements set forth in this  
14 section shall be grounds for loss of designation as a qualified manufacturer  
15 under this section.

16 (d) If the secretary determines that a qualified manufacturer is not in  
17 substantial compliance with the requirements of this act, the secretary, by  
18 written notice, shall inform the officers of the qualified manufacturer that  
19 such qualified manufacturer will lose its designation as a qualified  
20 manufacturer unless such qualified manufacturer corrects the deficiencies  
21 and is once again in compliance with the requirements for designation.

22 Sec. 3. K.S.A. 38-2007 is hereby amended to read as follows: 38-  
23 2007. For the purpose of financially empowering parents to choose a  
24 health plan for a child, the secretary should review and report both  
25 verbally and in writing to the ~~joint committee on children's issues~~ *standing*  
26 *committee on public health and welfare of the senate and the standing*  
27 *committee on children and seniors of the house of representatives* prior to  
28 each legislative session with recommendations regarding the following  
29 items:

30 (a) Direct transfer of the annual premium for a plan chosen by an  
31 eligible low-income family to the insurer;

32 (b) The use of a refundable tax credit for an eligible low-income  
33 family to apply toward the purchase of a child's health care coverage. Such  
34 refundable tax credit would cover most or all of the cost of the insurance  
35 with the parents paying any difference. Additionally, an eligible low-  
36 income family would receive full benefit of the credit, regardless of how  
37 small their income tax obligation was; and

38 (c) The status of the Kansas insurance coverage for children's  
39 program including all performance measures relating to the Kansas  
40 insurance coverage for children's program.

41 Sec. 4. K.S.A. 2012 Supp. 39-7,162 is hereby amended to read as  
42 follows: 39-7,162. (a) (†) There is hereby established the home and  
43 community based services savings fund in the state treasury which shall be

1 administered by the secretary ~~of aging~~ *for aging and disability services*.  
2 All savings resulting from transferring individuals from the institutions to  
3 home and community based services shall be deposited in this fund. All  
4 expenditures from the home and community based services savings fund  
5 shall be in accordance with the provisions of appropriation acts upon  
6 vouchers approved by the secretary ~~of aging~~ *for aging and disability*  
7 *services* or the secretary's designee.

8 ~~(2)~~ (b) Whenever an individual, who is residing in an institution,  
9 transfers to home and community based services, the secretary ~~of aging~~ *for*  
10 *aging and disability services* shall determine the savings attributable to  
11 such transfer and shall certify the amount or amounts of such savings to  
12 the director of accounts and reports. Upon receipt of each such  
13 certification, the director of accounts and reports shall transfer the amount  
14 or amounts specified in such certification from the funds and accounts  
15 specified to the home and community based services savings fund of the  
16 department ~~on aging~~ *for aging and disability services* in accordance with  
17 such certification. The secretary ~~of aging~~ *for aging and disability services*  
18 shall transmit a copy of each such certification to the director of the budget  
19 and to the director of legislative research.

20 ~~(b)~~ The secretary shall certify to the joint committee on home and  
21 community based services oversight at the beginning of each calendar  
22 quarter the amount of savings resulting from transferring individuals from  
23 institutions to home and community based services that have been  
24 transferred during the preceding calendar quarter to the home and  
25 community based services savings fund from each institution during the  
26 preceding quarter.

27 Sec. 5. K.S.A. 46-912 is hereby amended to read as follows: 46-912.  
28 There is hereby established the joint committee on special claims against  
29 the state which shall have ~~13~~ *seven* members consisting of ~~five~~ *three*  
30 members of the senate and ~~eight~~ *four* members of the house of  
31 representatives. The representative members shall be appointed by the  
32 speaker, and the senator members shall be appointed by the senate  
33 committee on organization, calendar and rules. *Of the members of the*  
34 *house, three members shall be from the majority party with the remaining*  
35 *member from the minority part. Of the members of the senate, two*  
36 *members shall be from the majority party with the remaining member from*  
37 *the minority party.* Not less than ~~two representative members and two~~  
38 ~~senator members~~ **one representative member and not less than one**  
39 **senator member** shall be attorneys licensed to practice law in the state of  
40 Kansas. Not less than one representative member shall be a member of the  
41 house committee on appropriations and not less than one senator member  
42 shall be a member of the senate committee on ways and means. In the  
43 biennium commencing with the convening of the regular session of the

1 legislature in 1979, and in the biennium commencing with the convening  
2 of the regular session of the legislature each four years thereafter, the  
3 chairperson of the joint committee shall be a representative member  
4 designated by the speaker of the house of representatives. In the biennium  
5 commencing with the convening of the regular session of the legislature in  
6 1981, and in the biennium commencing with the regular session of the  
7 legislature each four years thereafter, the senate committee on  
8 organization, calendar and rules shall designate a senator member to be the  
9 chairperson of the joint committee. If a chairperson shall die, resign or  
10 otherwise be incapable of serving as chairperson for the full two-year  
11 period, a successor shall be designated to fill the unexpired portion of such  
12 period in the same manner as the original chairperson was selected. ~~The~~  
13 ~~members appointed from each house shall include minority party~~  
14 ~~representation thereon.~~ The joint committee shall meet in the interim  
15 between legislative sessions on the call of the chairperson as authorized by  
16 the legislative coordinating council. Any ~~seven~~ *four* members of the joint  
17 committee shall constitute a quorum. Any action of such joint committee  
18 may be taken by an affirmative vote of a majority of the members present,  
19 if a quorum is present.

20 The provisions of article 12 of chapter 46 of the Kansas Statutes  
21 Annotated, and amendments thereto, applicable to special committees  
22 shall apply to the joint committee on special claims against the state to the  
23 extent the same do not conflict with the specific provisions of this act  
24 applicable to such committee.

25 ~~Sec. 6. K.S.A. 2012 Supp. 46-2801 is hereby amended to read as~~  
26 ~~follows: 46-2801. (a) There is hereby created the joint committee on~~  
27 ~~corrections and juvenile justice oversight which shall be within the~~  
28 ~~legislative branch of state government and which shall be composed of no~~  
29 ~~more than seven members of the senate and seven members of the house~~  
30 ~~of representatives.~~

31 ~~(b) The senate members shall be appointed by the president and the~~  
32 ~~minority leader. The two major political parties shall have proportional~~  
33 ~~representation on such committee. In the event application of the~~  
34 ~~preceding sentence results in a fraction, the party having a fraction~~  
35 ~~exceeding .5 shall receive representation as though such fraction were a~~  
36 ~~whole number.~~

37 ~~(c) The seven representative members shall be appointed as follows:~~

38 ~~(1) Two members shall be members of the majority party who are~~  
39 ~~members of the house committee on appropriations and shall be appointed~~  
40 ~~by the speaker;~~

41 ~~(2) two members shall be members of the majority party who are~~  
42 ~~members of the house committee on judiciary and shall be appointed by~~  
43 ~~the speaker; and~~

1       ~~(3) three members shall be members of the minority party who are~~  
2 ~~members of the house committee on appropriations or the house~~  
3 ~~committee on judiciary and shall be appointed by the minority leader.~~

4       ~~(d) Any vacancy in the membership of the joint committee on~~  
5 ~~corrections and juvenile justice oversight shall be filled by appointment in~~  
6 ~~the manner prescribed by this section for the original appointment.~~

7       ~~(e) All members of the joint committee on corrections and juvenile~~  
8 ~~justice oversight shall serve for terms ending on the first day of the regular~~  
9 ~~legislative session in odd-numbered years. The joint committee shall~~  
10 ~~organize annually and elect a chairperson and vice-chairperson in~~  
11 ~~accordance with this subsection. During odd-numbered years, the~~  
12 ~~chairperson shall be one of the representative members of the joint~~  
13 ~~committee elected by the members of the joint committee and the vice-~~  
14 ~~chairperson shall be one of the senate members elected by the members of~~  
15 ~~the joint committee. During even-numbered years, the chairperson shall be~~  
16 ~~one of the senate members of the joint committee elected by the members~~  
17 ~~of the joint committee and the vice-chairperson shall be one of the~~  
18 ~~representative members of the joint committee elected by the members of~~  
19 ~~the joint committee. The vice-chairperson shall exercise all of the powers~~  
20 ~~of the chairperson in the absence of the chairperson. If a vacancy occurs in~~  
21 ~~the office of chairperson or vice-chairperson, a member of the joint~~  
22 ~~committee, who is a member of the same house as the member who~~  
23 ~~vacated the office, shall be elected by the members of the joint committee~~  
24 ~~to fill such vacancy. Within 30 days after the effective date of this act, the~~  
25 ~~joint committee shall organize and elect a chairperson and a vice-~~  
26 ~~chairperson in accordance with the provisions of this act.~~

27       ~~(f) A quorum of the joint committee on corrections and juvenile~~  
28 ~~justice oversight shall be eight. All actions of the joint committee shall be~~  
29 ~~by motion adopted by a majority of those present when there is a quorum.~~

30       ~~(g) The joint committee on corrections and juvenile justice oversight~~  
31 ~~may meet at any time and at any place within the state on the call of the~~  
32 ~~chairperson, vice-chairperson and ranking minority member of the house~~  
33 ~~of representatives when the chairperson is a representative or of the senate~~  
34 ~~when the chairperson is a senator.~~

35       ~~(h) The provisions of the acts contained in article 12 of chapter 46 of~~  
36 ~~the Kansas Statutes Annotated, and amendments thereto, applicable to~~  
37 ~~special committees shall apply to the joint committee on corrections and~~  
38 ~~juvenile justice oversight to the extent that the same do not conflict with~~  
39 ~~the specific provisions of this act applicable to the joint committee.~~

40       ~~(i) In accordance with K.S.A. 46-1204, and amendments thereto, the~~  
41 ~~legislative coordinating council may provide for such professional services~~  
42 ~~as may be requested by the joint committee on corrections and juvenile~~  
43 ~~justice oversight.~~

1       ~~(j) The joint committee on corrections and juvenile justice oversight~~  
2 ~~may introduce such legislation as it deems necessary in performing its~~  
3 ~~functions.~~

4       ~~(k) In addition to other powers and duties authorized or prescribed by~~  
5 ~~law or by the legislative coordinating council, the joint committee on~~  
6 ~~corrections and juvenile justice oversight shall:~~

7       ~~(1) Monitor the inmate population and review and study the~~  
8 ~~programs, activities and plans of the department of corrections regarding~~  
9 ~~the duties of the department of corrections that are prescribed by statute,~~  
10 ~~including the implementation of expansion projects, the operation of~~  
11 ~~correctional, food service and other programs for inmates, community~~  
12 ~~corrections, parole and the condition and operation of the correctional~~  
13 ~~institutions and other facilities under the control and supervision of the~~  
14 ~~department of corrections;~~

15       ~~(2) monitor the establishment of the juvenile justice authority and~~  
16 ~~review and study the programs, activities and plans of the juvenile justice~~  
17 ~~authority regarding the duties of the juvenile justice authority that are~~  
18 ~~prescribed by statute, including the responsibility for the care, custody,~~  
19 ~~control and rehabilitation of juvenile offenders and the condition and~~  
20 ~~operation of the state juvenile correctional facilities under the control and~~  
21 ~~supervision of the juvenile justice authority;~~

22       ~~(3) review and study the adult correctional programs and activities~~  
23 ~~and facilities of counties, cities and other local governmental entities,~~  
24 ~~including the programs and activities of private entities operating~~  
25 ~~community correctional programs and facilities and the condition and~~  
26 ~~operation of jails and other local governmental facilities for the~~  
27 ~~incarceration of adult offenders;~~

28       ~~(4) review and study the juvenile offender programs and activities~~  
29 ~~and facilities of counties, cities, school districts and other local~~  
30 ~~governmental entities, including programs for the reduction and prevention~~  
31 ~~of juvenile crime and delinquency, the programs and activities of private~~  
32 ~~entities operating community juvenile programs and facilities and the~~  
33 ~~condition and operation of local governmental residential or custodial~~  
34 ~~facilities for the care, treatment or training of juvenile offenders;~~

35       ~~(5) study the progress and results of the transition of powers, duties~~  
36 ~~and functions from the department of social and rehabilitation services,~~  
37 ~~office of judicial administration and department of corrections to the~~  
38 ~~juvenile justice authority; and~~

39       ~~(6) make an annual report to the legislative coordinating council as~~  
40 ~~provided in K.S.A. 46-1207, and amendments thereto, and such special~~  
41 ~~reports to committees of the house of representatives and senate as are~~  
42 ~~deemed appropriate by the joint committee.~~

43       ~~(l) The provisions of this section shall expire on July 1, 2015.~~

1       Sec. 7{6}. K.S.A. 2012 Supp. 65-1,251 is hereby amended to read as  
2 follows: 65-1,251. ~~(a)~~ The department of health and environment shall  
3 work to increase influenza immunization awareness and participation  
4 among parents of children aged six months to five years in child care  
5 facilities. The official website of the department of health and environment  
6 shall have information on the benefits of annual immunization against  
7 influenza for children and its programs offered for the children. The  
8 department of health and environment shall cooperate with the department  
9 ~~of social and rehabilitation for aging and disability~~ services in order to  
10 distribute the information to the parents and child care facilities effectively  
11 in August or September in every year.

12       ~~(b) The department of health and environment shall conduct a study  
13 of the feasibility of establishing a school-based influenza vaccination pilot  
14 program. The study shall:~~

15       ~~(1) Examine the costs and benefits of establishing a school-based  
16 influenza vaccination pilot program;~~

17       ~~(2) identify any barriers to implementing the school-based influenza  
18 vaccination pilot program and recommend strategies for removing the  
19 barriers; and~~

20       ~~(3) determine the fiscal impact to the state of the proposed pilot  
21 program.~~

22       ~~(e) The department of health and environment shall submit a report  
23 on its findings and recommendations resulting from such study to the joint  
24 committee on health policy oversight before the 2009 legislature convenes.  
25 The joint committee on health policy oversight may introduce bills or  
26 request funding in order to provide for the program.~~

27       ~~(d) The department of health and environment may seek, receive, and  
28 spend money received through an appropriation, grant, donation, or  
29 reimbursement from any public or private source to implement the pilot  
30 program.~~

31       Sec. 8{7}. K.S.A. 71-212 is hereby amended to read as follows: 71-  
32 212. (a) The board of trustees of any community college may establish an  
33 early retirement incentive program for the benefit of the employees of the  
34 community college for retirement of employees prior to the normal  
35 retirement age of 65 years. As used in this act, an "early retirement  
36 incentive program" is a program that provides cash payments, either in the  
37 form of a lump-sum payment at the beginning of the fiscal year, or in  
38 regular payments during the fiscal year. No payment pursuant to an early  
39 retirement incentive program as provided in this section shall be made  
40 prior to the retirement under the provisions of the Kansas public  
41 employees retirement system of any such employee of the community  
42 college.

43       (b) Commencing in the fiscal year that commenced in calendar year

1 2002 and every three years thereafter, each board that has established an  
2 early retirement incentive program shall prepare and submit a report to the  
3 state board of regents related to such early retirement incentive program.  
4 Such report shall contain: (1) Three years of budget data of such program,  
5 including actual costs, and a current year and future years' budget data for  
6 three to five years; (2) current costs and benefits of such program and  
7 projected costs and benefits of such program for three to five years; (3)  
8 current and projected number of participants in such program; and (4) such  
9 other information as required by the state board of regents. The state board  
10 of regents shall design and distribute forms to carry out the provisions of  
11 this act to the board of trustees of each community college that has  
12 established an early retirement incentive program. The state board of  
13 regents shall compile and prepare a summary report which shall be  
14 submitted to the ~~joint committee on pensions, investments and benefits~~  
15 *standing committee on pension and benefits of the house of representatives*  
16 no later than January 1 of the year that follows the end of the fiscal year in  
17 which the reporting is required as provided in this subsection.

18 Sec. 9{8}. K.S.A. 2012 Supp. 72-5395 is hereby amended to read as  
19 follows: 72-5395. (a) The board of education of any school district may  
20 establish an early retirement incentive program for the benefit of the  
21 employees of the district for retirement prior to the retirement age as  
22 provided pursuant to 42 U.S.C. § 416(l)(1) of the social security act as in  
23 effect on the effective date of this act. As used in this act, an "early  
24 retirement incentive program" is a program that provides cash payments,  
25 either in the form of a lump-sum payment at the beginning of the fiscal  
26 year, or in regular payments during the fiscal year. No payment pursuant to  
27 an early retirement incentive program as provided in this section shall be  
28 made prior to the retirement under the provisions of the Kansas public  
29 employees retirement system for any employee of the district.

30 (b) Commencing in the fiscal year that commenced in calendar year  
31 2002 and every three years thereafter, each board that has established an  
32 early retirement incentive program shall prepare and submit a report to the  
33 state board of education related to such early retirement incentive program.  
34 Such report shall contain: (1) Three years of budget data of such program,  
35 including actual costs, and current year and future years' budget data for  
36 three to five years; (2) current costs and benefits of such program and  
37 projected costs and benefits of such program for three to five years; (3)  
38 current and projected number of participants in such program; and (4) such  
39 other information as required by the state board of education. The state  
40 board of education shall design and distribute forms to carry out the  
41 provisions of this act to the board of education of each school district that  
42 has established an early retirement incentive program. The state board of  
43 education shall compile and prepare a summary report which shall be



1 submitted to the ~~joint committee on pensions, investments and benefits~~  
2 *standing committee on pensions and benefits of the house of*  
3 *representatives* no later than January 1 of the year that follows the end of  
4 the fiscal year in which the reporting is required as provided in this  
5 subsection.

6 Sec. ~~10~~{9}. K.S.A. 74-4907 is hereby amended to read as follows: 74-  
7 4907. (1) The principal office of the system shall be in quarters at Topeka,  
8 Kansas.

9 (2) The board shall keep a complete record of all proceedings which  
10 shall be open at all reasonable hours to inspection. Any agreement in  
11 settlement of litigation involving the system and the investment of moneys  
12 of the fund shall be open for inspection by any person and suitable  
13 facilities shall be made available by the system for this purpose as  
14 provided by the provisions of K.S.A. 45-215 et seq., and amendments  
15 thereto. A report covering the operation of the system for the past fiscal  
16 year, including income and disbursements, and of the financial condition  
17 of the system at the end of such fiscal year, showing the valuation of assets  
18 and investments and liabilities of the system, shall be delivered after the  
19 end of each fiscal year and prior to January 1 of the next fiscal year to the  
20 governor and to the chairperson of the legislative coordinating council, to  
21 the secretary of the senate and to the chief clerk of the house of  
22 representatives and shall be made readily available to the members and  
23 participating employers of the system. Such report shall include the  
24 financial statements of the system and supporting schedules, presented in  
25 accordance with generally accepted accounting principles. Such  
26 supporting schedules presented in the annual report shall include a listing  
27 which reports the cost and the fiscal year end lower amount of cost or  
28 market value for each individual alternative investment of the system  
29 which was initiated on or after July 1, 1991, and reports, in aggregate, the  
30 cost and the fiscal year end lower amount of cost or market value for those  
31 alternative investments of the system initiated prior to July 1, 1991. The  
32 retirement system shall maintain a listing which reports the cost and the  
33 fiscal year end lower amount of cost or market value for each individual  
34 alternative investment of the system which was initiated prior to July 1,  
35 1991, and such listing shall be available for review in camera by the ~~joint~~  
36 ~~committee on pensions, investments and benefits~~ *standing committee on*  
37 *pensions and benefits of the house of representatives* and as may be  
38 required under the provisions of the legislative post audit act.

39 Sec. ~~11~~{10}. K.S.A. 2012 Supp. 74-4908 is hereby amended to read  
40 as follows: 74-4908. (1) The board shall appoint an executive director and  
41 shall establish the compensation therefor. Subject to the direction of the  
42 board, the executive director shall be the managing officer of the system  
43 and as such shall have charge of the office, records and supervision and

1 direction of the employees of the system. The executive director shall be in  
2 the unclassified service under the Kansas civil service act.

3 (2) The executive director shall recommend to the board the  
4 administrative organization, the number and qualifications of employees  
5 necessary to carry out the intent of this act and the directions of the board.  
6 Upon approval of the board, the executive director is authorized to employ  
7 such persons in accordance with the Kansas civil service act.

8 (3) The board of trustees shall select and employ or retain a qualified  
9 actuary who shall serve at its pleasure as its technical advisor on matters  
10 regarding operation of the system. The actuary shall:

11 (a) Make an annual valuation of the liabilities and reserves of the  
12 system, and a determination of the contributions required by the system to  
13 discharge its liabilities and administrative costs under this act, and  
14 recommend to the board rates of employer contributions required to  
15 establish and maintain the system on an actuarial reserve basis. Such  
16 recommended employer contributions shall not be based on any other  
17 purpose outside of the needs of the system as prescribed by this  
18 subsection.

19 (b) As soon after the effective date as practicable and once every  
20 three years thereafter, make a general investigation of the actuarial  
21 experience under the system including mortality, retirement, employment  
22 turnover and interest, and recommend actuarial tables for use in valuations  
23 and in calculating actuarial equivalent values based on such investigation.

24 (c) Cooperate with and provide any assistance to the actuary; ~~and the~~  
25 ~~legislative coordinating council and the joint committee on pensions,~~  
26 ~~investments and benefits~~ related to the independent actuarial audit and  
27 evaluation as provided in K.S.A. 74-4908a, and amendments thereto.

28 (d) Perform such other duties as may be assigned by the board.

29 (4) The attorney general of the state shall furnish such legal services  
30 as may be necessary upon receipt of a request from the board, except that  
31 legal services may be furnished by other counsel as the board in its  
32 discretion deems necessary and prudent.

33 (5) The board shall employ or retain qualified investment counsel or  
34 counselors or may negotiate with a trust company to assist and advise in  
35 the judicious investment of funds as herein provided.

36 (6) Subject to limitations imposed pursuant to this subsection and  
37 otherwise provided by law, the board may appoint such officers and  
38 employees necessary to advise and assist the board in the performance of  
39 powers, duties and functions relating to the management and investment of  
40 the fund and in such other matters as may be directed by the board. Such  
41 appointed officers and employees shall be in the unclassified service under  
42 the Kansas civil service act. Not more than 25% of the total number of  
43 officers and employees appointed or employed by the system shall be in

1 the unclassified service. The provisions of this subsection shall not affect  
2 the classified status of any employee in the classified service under the  
3 Kansas civil service act who is employed on the date immediately  
4 preceding the effective date of this act. The board is authorized to assign  
5 any new or vacant position created by the system on or after the effective  
6 date of this act to the classified or unclassified service under the Kansas  
7 civil service act. The compensation of such appointed officers and  
8 employees in the unclassified service under the Kansas civil service act  
9 shall be established by the board.

10 (7) The board may establish a program for the paying of bonus  
11 awards to unclassified officers and employees pursuant to procedures  
12 established by the board.

13 Sec. ~~11~~. K.S.A. 2012 Supp. 74-4909 is hereby amended to read  
14 as follows: 74-4909. (1) The board of trustees shall be responsible for the  
15 general administration of the system, subject to the provisions of this act.

16 (2) The board shall establish rules and regulations for the  
17 administration of the system and for the transaction of business consistent  
18 with law, which rules and regulations shall be filed in the office of the  
19 secretary of state.

20 (3) The board shall be responsible for the installation of a complete  
21 and adequate system of accounts and records. The board shall contract  
22 with the department of administration to provide such accounting services  
23 as are necessary to avoid duplication of efforts and promote efficiency.  
24 The board shall pay the department of administration an amount not  
25 exceeding the actual cost incurred in providing this service, which  
26 payments shall be deposited in the state treasury and then credited to the  
27 state general fund.

28 (4) All meetings of the board shall be open to the public. The board  
29 shall keep a record of all proceedings.

30 (5) The board may prescribe rules and regulations for the  
31 determination of the value of maintenance, board, lodging, laundry and  
32 other allowances to employees in lieu of money.

33 (6) The board may adopt all necessary actuarial tables to be used in  
34 the operation of the system as recommended by the actuary, and may  
35 compile such additional data as may be necessary for required actuarial  
36 valuations and calculations. Whenever the amount of any benefit is to be  
37 determined on the basis of actuarial assumptions, the assumptions  
38 specified by the board in a way that precludes employer discretion.

39 (7) Subject to the provisions of K.S.A. 74-49,123, and amendments  
40 thereto, the board or the investment committee may invest all cash not  
41 required for current payments in securities eligible for investment under  
42 this act. All actions of the investment committee shall be reported to the  
43 board at the first meeting of the board following the action of the

1 investment committee.

2 (8) The board, as soon after the close of the fiscal year as practical,  
3 shall publish for distribution among members a financial statement  
4 showing the financial status of the system.

5 (9) All decisions of the board as to questions of fact shall be final and  
6 conclusive on all persons except for the right of review as provided by law  
7 and except for fraud or such gross mistake of fact as to have an effect  
8 equivalent to fraud.

9 (10) Each member's account and records shall be administered in a  
10 confidential manner and specific data regarding the member shall not be  
11 released unless authorized in writing by the member; however, the board  
12 may release information to the employer or to other state and federal  
13 agencies as the board deems necessary.

14 (11) The board shall develop and adopt a specific plan which outlines  
15 strategies, goals, procedures and related costs, including additional  
16 employees necessary to carry out the provisions of this subsection, to  
17 provide for the system's internal management of the investment and  
18 reinvestment of moneys of the fund as provided in K.S.A. 74-4921, and  
19 amendments thereto. Such internal management would replace the  
20 management of all or part of the fund by persons the board has contracted  
21 with as provided in subsection (7) of K.S.A. 74-4921, and amendments  
22 thereto. The board shall report such plan developed pursuant to this  
23 subsection to the legislature and the governor on or before January 1,  
24 1993.

25 (12) The board shall adopt rules and regulations providing the  
26 requirements and procedures for the election of members of the board by  
27 members and retirants of the system as provided in subsection (a)(2) of  
28 K.S.A. 74-4905, and amendments thereto and for the filling of any  
29 vacancy involving such elected member of the board.

30 (13) The board shall cooperate with and provide any assistance to the  
31 actuary; *and* the legislative coordinating council ~~and the joint committee~~  
32 ~~on pensions, investments and benefits~~ related to the independent actuarial  
33 audit and evaluation as provided in K.S.A. 74-4908a, and amendments  
34 thereto.

35 (14) The board shall be responsible for the administration of the  
36 Kansas public employees deferred compensation plan and all related  
37 functions as prescribed in K.S.A. 74-4911f, K.S.A. 2012 Supp. 74-49b01  
38 through 74-49b06, *and amendments thereto*, and the Kansas public  
39 employees deferred compensation act.

40 Sec. ~~12~~**12**. K.S.A. 2012 Supp. 74-4920 is hereby amended to read  
41 as follows: 74-4920. (1) (a) Upon the basis of each annual actuarial  
42 valuation and appraisal as provided for in subsection (3)(a) of K.S.A. 74-  
43 4908, and amendments thereto, the board shall certify, on or before July 15

1 of each year, to the division of the budget in the case of the state and to the  
2 agent for each other participating employer an actuarially determined  
3 estimate of the rate of contribution which will be required, together with  
4 all accumulated contributions and other assets of the system, to be paid by  
5 each such participating employer to pay all liabilities which shall exist or  
6 accrue under the system, including amortization of the actuarial accrued  
7 liability as determined by the board. The board shall determine the  
8 actuarial cost method to be used in annual actuarial valuations, to  
9 determine the employer contribution rates that shall be certified by the  
10 board. Such certified rate of contribution, amortization methods and  
11 periods and actuarial cost method shall be based on the standards set forth  
12 in subsection (3)(a) of K.S.A. 74-4908, and amendments thereto, and shall  
13 not be based on any other purpose outside of the needs of the system.

14 (b) (i) For employers affiliating on and after January 1, 1999, upon  
15 the basis of an annual actuarial valuation and appraisal of the system  
16 conducted in the manner provided for in K.S.A. 74-4908, and amendments  
17 thereto, the board shall certify, on or before July 15 of each year to each  
18 such employer an actuarially determined estimate of the rate of  
19 contribution which shall be required to be paid by each such employer to  
20 pay all of the liabilities which shall accrue under the system from and after  
21 the entry date as determined by the board, upon recommendation of the  
22 actuary. Such rate shall be termed the employer's participating service  
23 contribution and shall be uniform for all participating employers. Such  
24 additional liability shall be amortized as determined by the board. For all  
25 participating employers described in this section, the board shall determine  
26 the actuarial cost method to be used in annual actuarial valuations to  
27 determine the employer contribution rates that shall be certified by the  
28 board.

29 (ii) The board shall determine for each such employer separately an  
30 amount sufficient to amortize all liabilities for prior service costs which  
31 shall have accrued at the time of entry into the system. On the basis of  
32 such determination the board shall annually certify to each such employer  
33 separately an actuarially determined estimate of the rate of contribution  
34 which shall be required to be paid by that employer to pay all of the  
35 liabilities for such prior service costs. Such rate shall be termed the  
36 employer's prior service contribution.

37 (2) The division of the budget and the governor shall include in the  
38 budget and in the budget request for appropriations for personal services  
39 the sum required to satisfy the state's obligation under this act as certified  
40 by the board and shall present the same to the legislature for allowance and  
41 appropriation.

42 (3) Each other participating employer shall appropriate and pay to the  
43 system a sum sufficient to satisfy the obligation under this act as certified

1 by the board.

2 (4) Each participating employer is hereby authorized to pay the  
3 employer's contribution from the same fund that the compensation for  
4 which such contribution is made is paid from or from any other funds  
5 available to it for such purpose. Each political subdivision, other than an  
6 instrumentality of the state, which is by law authorized to levy taxes for  
7 other purposes, may levy annually at the time of its levy of taxes, a tax  
8 which may be in addition to all other taxes authorized by law for the  
9 purpose of making its contributions under this act and, in the case of cities  
10 and counties, to pay a portion of the principal and interest on bonds issued  
11 under the authority of K.S.A. 12-1774, and amendments thereto, by cities  
12 located in the county, which tax, together with any other fund available,  
13 shall be sufficient to enable it to make such contribution. In lieu of levying  
14 the tax authorized in this subsection, any taxing subdivision may pay such  
15 costs from any employee benefits contribution fund established pursuant to  
16 K.S.A. 12-16,102, and amendments thereto. Each participating employer  
17 which is not by law authorized to levy taxes as described above, but which  
18 prepares a budget for its expenses for the ensuing year and presents the  
19 same to a governing body which is authorized by law to levy taxes as  
20 described above, may include in its budget an amount sufficient to make  
21 its contributions under this act which may be in addition to all other taxes  
22 authorized by law. Such governing body to which the budget is submitted  
23 for approval, may levy a tax sufficient to allow the participating employer  
24 to make its contributions under this act, which tax, together with any other  
25 fund available, shall be sufficient to enable the participating employer to  
26 make the contributions required by this act.

27 (5) (a) The rate of contribution certified to a participating employer as  
28 provided in this section shall apply during the fiscal year of the  
29 participating employer which begins in the second calendar year following  
30 the year of the actuarial valuation.

31 (b) (i) Except as specifically provided in this section, for fiscal years  
32 commencing in calendar year 1996 and in each subsequent calendar year,  
33 the rate of contribution certified to the state of Kansas shall in no event  
34 exceed the state's contribution rate for the immediately preceding fiscal  
35 year by more than 0.2% of the amount of compensation upon which  
36 members contribute during the period.

37 (ii) Except as specifically provided in this subsection, for the fiscal  
38 years commencing in the following calendar years, the rate of contribution  
39 certified to the state of Kansas and to the participating employers under  
40 K.S.A. 74-4931, and amendments thereto, shall in no event exceed the  
41 state's contribution rate for the immediately preceding fiscal year by more  
42 than the following amounts expressed as a percentage of compensation  
43 upon which members contribute during the period: (A) For the fiscal year

1 commencing in calendar years 2010 through 2012, an amount not to  
2 exceed more than 0.6% of the amount of the immediately preceding fiscal  
3 year; (B) for the fiscal year commencing in calendar year 2013, an amount  
4 not to exceed more than 0.9% of the amount of the immediately preceding  
5 fiscal year; (C) for the fiscal year commencing in calendar year 2014, an  
6 amount not to exceed more than 1% of the amount of the immediately  
7 preceding fiscal year; (D) for the fiscal year commencing in calendar year  
8 2015, an amount not to exceed more than 1.1% of the amount of the  
9 immediately preceding fiscal year; and (E) for the fiscal year commencing  
10 in calendar year 2016, and in each subsequent calendar year, an amount  
11 not to exceed more than 1.2% of the amount of the immediately preceding  
12 fiscal year.

13 (iii) Except as specifically provided in this section, for fiscal years  
14 commencing in calendar year 1997 and in each subsequent calendar year,  
15 the rate of contribution certified to participating employers other than the  
16 state of Kansas shall in no event exceed such participating employer's  
17 contribution rate for the immediately preceding fiscal year by more than  
18 0.15% of the amount of compensation upon which members contribute  
19 during the period.

20 (iv) Except as specifically provided in this subsection, for the fiscal  
21 years commencing in the following calendar years, the rate of contribution  
22 certified to participating employers other than the state of Kansas shall in  
23 no event exceed the contribution rate for such employers for the  
24 immediately preceding fiscal year by more than the following amounts  
25 expressed as a percentage of compensation upon which members  
26 contribute during the period: (A) For the fiscal year commencing in  
27 calendar years 2010 through 2013, an amount not to exceed more than  
28 0.6% of the amount of the immediately preceding fiscal year; (B) for the  
29 fiscal year commencing in calendar year 2014, an amount not to exceed  
30 more than 0.9% of the amount of the immediately preceding fiscal year;  
31 (C) for the fiscal year commencing in calendar year 2015, an amount not  
32 to exceed more than 1% of the amount of the immediately preceding fiscal  
33 year; (D) for the fiscal year commencing in calendar year 2016, an amount  
34 not to exceed more than 1.1% of the amount of the immediately preceding  
35 fiscal year; and (E) for the fiscal year commencing in calendar year 2017,  
36 and in each subsequent calendar year, an amount not to exceed more than  
37 1.2% of the amount of the immediately preceding fiscal year.

38 (v) As part of the annual actuarial valuation, there shall be a separate  
39 employer rate of contribution calculated for the state of Kansas, a separate  
40 employer rate of contribution calculated for participating employers under  
41 K.S.A. 74-4931, and amendments thereto, a combined employer rate of  
42 contribution calculated for the state of Kansas and participating employers  
43 under K.S.A. 74-4931, and amendments thereto, and a separate employer

1 rate of contribution calculated for all other participating employers.

2 (vi) There shall be a combined employer rate of contribution certified  
3 to the state of Kansas and participating employers under K.S.A. 74-4931,  
4 and amendments thereto. There shall be a separate employer rate of  
5 contribution certified to all other participating employers.

6 (vii) If the combined employer rate of contribution calculated for the  
7 state of Kansas and participating employers under K.S.A. 74-4931, and  
8 amendments thereto, is greater than the separate employer rate of  
9 contribution for the state of Kansas, the difference in the two rates applied  
10 to the actual payroll of the state of Kansas for the applicable fiscal year  
11 shall be calculated. This amount shall be certified by the board for deposit  
12 as additional employer contributions to the retirement benefit  
13 accumulation reserve for the participating employers under K.S.A. 74-  
14 4931, and amendments thereto.

15 (6) The actuarial cost of any legislation enacted in the 1994 session of  
16 the Kansas legislature will be included in the June 30, 1994, actuarial  
17 valuation in determining contribution rates for participating employers.

18 (7) The actuarial cost of the provisions of K.S.A. 74-4950i, and  
19 amendments thereto, will be included in the June 30, 1998, actuarial  
20 valuation in determining contribution rates for participating employers.  
21 The actuarial accrued liability incurred for the provisions of K.S.A. 74-  
22 4950i, and amendments thereto, shall be amortized over 15 years.

23 (8) Except as otherwise provided by law, the actuarial cost of any  
24 legislation enacted by the Kansas legislature, except the actuarial cost of  
25 K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the  
26 employer contribution rates certified for the employer contribution rate in  
27 the fiscal year immediately following such enactment. Such actuarial cost  
28 shall be determined by the qualified actuary employed or retained by the  
29 system pursuant to K.S.A. 74-4908, and amendments thereto, and reported  
30 to the system ~~and the joint committee on pensions, investments and~~  
31 ~~benefits.~~

32 (9) Notwithstanding the provisions of subsection (8), the actuarial  
33 cost of the provisions of K.S.A. 74-49,109 et seq., and amendments  
34 thereto, shall be first reflected in employer contribution rates effective with  
35 the first day of the first payroll period for the fiscal year 2005. The  
36 actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109  
37 et seq., and amendments thereto, shall be amortized over 10 years.

38 (10) The cost of the postretirement benefit payment provided  
39 pursuant to the provisions of K.S.A. 2012 Supp. 74-49,114b, and  
40 amendments thereto, for retirants other than local retirants as described in  
41 subsection (11) or insured disability benefit recipients shall be paid in the  
42 fiscal year commencing on July 1, 2007.

43 (11) The actuarial accrued liability incurred for the provisions of



1 K.S.A. 2012 Supp. 74-49,114b, and amendments thereto, for the KPERS  
2 local group and retirants who were employees of local employers which  
3 affiliated with the Kansas police and firemen's retirement system shall be  
4 amortized over 10 years.

5 (12) The cost of the postretirement benefit payment provided  
6 pursuant to the provisions of K.S.A. 2012 Supp. 74-49,114c, and  
7 amendments thereto, for retirants other than local retirants as described in  
8 subsection (13) or insured disability benefit recipients shall be paid in the  
9 fiscal year commencing on July 1, 2008.

10 (13) The actuarial accrued liability incurred for the provisions of  
11 K.S.A. 2012 Supp. 74-49,114c, and amendments thereto, for the KPERS  
12 local group and retirants who were employees of local employers which  
13 affiliated with the Kansas police and firemen's retirement system shall be  
14 amortized over 10 years.

15 (14) The board with the advice of the actuary may fix the contribution  
16 rates for participating employers joining the system after one year from the  
17 first entry date or for employers who exercise the option contained in  
18 K.S.A. 74-4912, and amendments thereto, at rates different from the rate  
19 fixed for employers joining within one year of the first entry date.

20 (15) Employer contributions shall in no way be limited by any other  
21 act which now or in the future establishes or limits the compensation of  
22 any member.

23 (16) Notwithstanding any provision of law to the contrary, each  
24 participating employer shall remit quarterly, or as the board may otherwise  
25 provide, all employee deductions and required employer contributions to  
26 the executive director for credit to the Kansas public employees retirement  
27 fund within three days after the end of the period covered by the  
28 remittance by electronic funds transfer. Remittances of such deductions  
29 and contributions received after such date are delinquent. Delinquent  
30 payments due under this subsection shall be subject to interest at the rate  
31 established for interest on judgments under subsection (a) of K.S.A. 16-  
32 204, and amendments thereto. At the request of the board, delinquent  
33 payments which are due or interest owed on such payments, or both, may  
34 be deducted from any other moneys payable to such employer by any  
35 department or agency of the state.

36 Sec. ~~14~~**13**. K.S.A. 2012 Supp. 74-4921 is hereby amended to read  
37 as follows: 74-4921. (1) There is hereby created in the state treasury the  
38 Kansas public employees retirement fund. All employee and employer  
39 contributions shall be deposited in the state treasury to be credited to the  
40 Kansas public employees retirement fund. The fund is a trust fund and  
41 shall be used solely for the exclusive purpose of providing benefits to  
42 members and member beneficiaries and defraying reasonable expenses of  
43 administering the fund. Investment income of the fund shall be added or

1 credited to the fund as provided by law. All benefits payable under the  
2 system, refund of contributions and overpayments, purchases or  
3 investments under the law and expenses in connection with the system  
4 unless otherwise provided by law shall be paid from the fund. The director  
5 of accounts and reports is authorized to draw warrants on the state  
6 treasurer and against such fund upon the filing in the director's office of  
7 proper vouchers executed by the chairperson or the executive director of  
8 the board. As an alternative, payments from the fund may be made by  
9 credits to the accounts of recipients of payments in banks, savings and loan  
10 associations and credit unions. A payment shall be so made only upon the  
11 written authorization and direction of the recipient of payment and upon  
12 receipt of such authorization such payments shall be made in accordance  
13 therewith. Orders for payment of such claims may be contained on (a) a  
14 letter, memorandum, telegram, computer printout or similar writing, or (b)  
15 any form of communication, other than voice, which is registered upon  
16 magnetic tape, disc or any other medium designed to capture and contain  
17 in durable form conventional signals used for the electronic  
18 communication of messages.

19 (2) The board shall have the responsibility for the management of the  
20 fund and shall discharge the board's duties with respect to the fund solely  
21 in the interests of the members and beneficiaries of the system for the  
22 exclusive purpose of providing benefits to members and such member's  
23 beneficiaries and defraying reasonable expenses of administering the fund  
24 and shall invest and reinvest moneys in the fund and acquire, retain,  
25 manage, including the exercise of any voting rights and disposal of  
26 investments of the fund within the limitations and according to the powers,  
27 duties and purposes as prescribed by this section.

28 (3) Moneys in the fund shall be invested and reinvested to achieve the  
29 investment objective which is preservation of the fund to provide benefits  
30 to members and member beneficiaries, as provided by law and accordingly  
31 providing that the moneys are as productive as possible, subject to the  
32 standards set forth in this act. No moneys in the fund shall be invested or  
33 reinvested if the sole or primary investment objective is for economic  
34 development or social purposes or objectives.

35 (4) In investing and reinvesting moneys in the fund and in acquiring,  
36 retaining, managing and disposing of investments of the fund, the board  
37 shall exercise the judgment, care, skill, prudence and diligence under the  
38 circumstances then prevailing, which persons of prudence, discretion and  
39 intelligence acting in a like capacity and familiar with such matters would  
40 use in the conduct of an enterprise of like character and with like aims by  
41 diversifying the investments of the fund so as to minimize the risk of large  
42 losses, unless under the circumstances it is clearly prudent not to do so,  
43 and not in regard to speculation but in regard to the permanent disposition

1 of similar funds, considering the probable income as well as the probable  
2 safety of their capital.

3 (5) Notwithstanding subsection (4): (a) Total investments in common  
4 stock may be made in the amount of up to 60% of the total book value of  
5 the fund;

6 (b) the board may invest or reinvest moneys of the fund in alternative  
7 investments if the following conditions are satisfied:

8 (i) The total of the annual net commitment to alternative investments  
9 does not exceed 5% of the total market value of investment assets of the  
10 fund as measured from the end of the preceding calendar year;

11 (ii) if in addition to the system, there are at least two other qualified  
12 institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities  
13 act of 1933;

14 (iii) the system's share in any individual alternative investment is  
15 limited to an investment representing not more than 20% of any such  
16 individual alternative investment;

17 (iv) the system has received a favorable and appropriate  
18 recommendation from a qualified, independent expert in investment  
19 management or analysis in that particular type of alternative investment;

20 (v) the alternative investment is consistent with the system's  
21 investment policies and objectives as provided in subsection (6);

22 (vi) the individual alternative investment does not exceed more than  
23 2.5% of the total alternative investments made under this subsection. If the  
24 alternative investment is made pursuant to participation by the system in a  
25 multi-investor pool, the 2.5% limitation contained in this subsection is  
26 applied to the underlying individual assets of such pool and not to  
27 investment in the pool itself. The total of such alternative investments  
28 made pursuant to participation by the system in any one individual multi-  
29 investor pool shall not exceed more than 20% of the total of alternative  
30 investments made by the system pursuant to this subsection. Nothing in  
31 this subsection requires the board to liquidate or sell the system's holdings  
32 in any alternative investments made pursuant to participation by the  
33 system in any one individual multi-investor pool held by the system on the  
34 effective date of this act, unless such liquidation or sale would be in the  
35 best interest of the members and beneficiaries of the system and be  
36 prudent under the standards contained in this section. The 20% limitation  
37 contained in this subsection shall not have been violated if the total of such  
38 investment in any one individual multi-investor pool exceeds 20% of the  
39 total alternative investments of the fund as a result of market forces acting  
40 to increase the value of such a multi-investor pool relative to the rest of the  
41 system's alternative investments; however, the board shall not invest or  
42 reinvest any moneys of the fund in any such individual multi-investor pool  
43 until the value of such individual multi-investor pool is less than 20% of

1 the total alternative investments of the fund;

2 (vii) the board has received and considered the investment manager's  
3 due diligence findings submitted to the board as required by subsection (6)  
4 (c);

5 (viii) prior to the time the alternative investment is made, the system  
6 has in place procedures and systems to ensure that the investment is  
7 properly monitored and investment performance is accurately measured;  
8 and

9 (ix) the total of alternative investments does not exceed 15% of the  
10 total investment assets of the fund. The 15% limitation contained in this  
11 subsection shall not have been violated if the total of such alternative  
12 investments exceeds 15% of the total investment assets of the fund, based  
13 on the fund total market value, as a result of market forces acting to  
14 increase the value of such alternative investments relative to the rest of the  
15 system's investments. However, the board shall not invest or reinvest any  
16 moneys of the fund in alternative investments until the total value of such  
17 alternative investments is less than 15% of the total investment assets of  
18 the fund based on the market value. If the total value of the alternative  
19 investments exceeds 15% of the total investment assets of the fund, the  
20 board shall not be required to liquidate or sell the system's holdings in any  
21 alternative investment held by the system, unless such liquidation or sale  
22 would be in the best interest of the members and beneficiaries of the  
23 system and is prudent under the standards contained in this section.

24 For purposes of this act, "alternative investment" includes a broad  
25 group of investments that are not one of the traditional asset types of  
26 public equities, fixed income, cash or real estate. Alternative investments  
27 are generally made through limited partnership or similar structures, are  
28 not regularly traded on nationally recognized exchanges and thus are  
29 relatively illiquid, and exhibit lower correlations with more liquid asset  
30 types such as stocks and bonds. Alternative investments generally include,  
31 but are not limited to, private equity, private credit, hedge funds,  
32 infrastructure, commodities and other investments which have the  
33 characteristics described in this paragraph; and

34 (c) except as otherwise provided, the board may invest or reinvest  
35 moneys of the fund in real estate investments if the following conditions  
36 are satisfied:

37 (i) The system has received a favorable and appropriate  
38 recommendation from a qualified, independent expert in investment  
39 management or analysis in that particular type of real estate investment;

40 (ii) the real estate investment is consistent with the system's  
41 investment policies and objectives as provided in subsection (6); and

42 (iii) the system has received and considered the investment manager's  
43 due diligence findings.

1 (6) Subject to the objective set forth in subsection (3) and the  
2 standards set forth in subsections (4) and (5) the board shall formulate  
3 policies and objectives for the investment and reinvestment of moneys in  
4 the fund and the acquisition, retention, management and disposition of  
5 investments of the fund. Such policies and objectives shall include:

6 (a) Specific asset allocation standards and objectives;

7 (b) establishment of criteria for evaluating the risk versus the  
8 potential return on a particular investment;

9 (c) a requirement that all investment managers submit such manager's  
10 due diligence findings on each investment to the board or investment  
11 advisory committee for approval or rejection prior to making any  
12 alternative investment;

13 (d) a requirement that all investment managers shall immediately  
14 report all instances of default on investments to the board and provide the  
15 board with recommendations and options, including, but not limited to,  
16 curing the default or withdrawal from the investment; and

17 (e) establishment of criteria that would be used as a guideline for  
18 determining when no additional add-on investments or reinvestments  
19 would be made and when the investment would be liquidated.

20 The board shall review such policies and objectives, make changes  
21 considered necessary or desirable and readopt such policies and objectives  
22 on an annual basis.

23 (7) The board may enter into contracts with one or more persons  
24 whom the board determines to be qualified, whereby the persons undertake  
25 to perform the functions specified in subsection (2) to the extent provided  
26 in the contract. Performance of functions under contract so entered into  
27 shall be paid pursuant to rates fixed by the board subject to provisions of  
28 appropriation acts and shall be based on specific contractual fee  
29 arrangements. The system shall not pay or reimburse any expenses of  
30 persons contracted with pursuant to this subsection, except that after  
31 approval of the board, the system may pay approved investment related  
32 expenses subject to provisions of appropriation acts. The board shall  
33 require that a person contracted with to obtain commercial insurance  
34 which provides for errors and omissions coverage for such person in an  
35 amount to be specified by the board, provided that such coverage shall be  
36 at least the greater of \$500,000 or 1% of the funds entrusted to such person  
37 up to a maximum of \$10,000,000. The board shall require a person  
38 contracted with to give a fidelity bond in a penal sum as may be fixed by  
39 law or, if not so fixed, as may be fixed by the board, with corporate surety  
40 authorized to do business in this state. Such persons contracted with the  
41 board pursuant to this subsection and any persons contracted with such  
42 persons to perform the functions specified in subsection (2) shall be  
43 deemed to be agents of the board and the system in the performance of

1 contractual obligations.

2 (8) (a) In the acquisition or disposition of securities, the board may  
3 rely on the written legal opinion of a reputable bond attorney or attorneys,  
4 the written opinion of the attorney of the investment counselor or  
5 managers, or the written opinion of the attorney general certifying the  
6 legality of the securities.

7 (b) The board shall employ or retain qualified investment counsel or  
8 counselors or may negotiate with a trust company to assist and advise in  
9 the judicious investment of funds as herein provided.

10 (9) (a) Except as provided in subsection (7) and this subsection, the  
11 custody of money and securities of the fund shall remain in the custody of  
12 the state treasurer, except that the board may arrange for the custody of  
13 such money and securities as it considers advisable with one or more  
14 member banks or trust companies of the federal reserve system or with one  
15 or more banks in the state of Kansas, or both, to be held in safekeeping by  
16 the banks or trust companies for the collection of the principal and interest  
17 or other income or of the proceeds of sale. The services provided by the  
18 banks or trust companies shall be paid pursuant to rates fixed by the board  
19 subject to provisions of appropriation acts.

20 (b) The state treasurer and the board shall collect the principal and  
21 interest or other income of investments or the proceeds of sale of securities  
22 in the custody of the state treasurer and pay same when so collected into  
23 the fund.

24 (c) The principal and interest or other income or the proceeds of sale  
25 of securities as provided in clause (a) of this subsection (9) shall be  
26 reported to the state treasurer and the board and credited to the fund.

27 (10) The board shall with the advice of the director of accounts and  
28 reports establish the requirements and procedure for reporting any and all  
29 activity relating to investment functions provided for in this act in order to  
30 prepare a record monthly of the investment income and changes made  
31 during the preceding month. The record will reflect a detailed summary of  
32 investment, reinvestment, purchase, sale and exchange transactions and  
33 such other information as the board may consider advisable to reflect a  
34 true accounting of the investment activity of the fund.

35 (11) The board shall provide for an examination of the investment  
36 program annually. The examination shall include an evaluation of current  
37 investment policies and practices and of specific investments of the fund in  
38 relation to the objective set forth in subsection (3), the standard set forth in  
39 subsection (4) and other criteria as may be appropriate, and  
40 recommendations relating to the fund investment policies and practices  
41 and to specific investments of the fund as are considered necessary or  
42 desirable. The board shall include in its annual report to the governor as  
43 provided in K.S.A. 74-4907, and amendments thereto, a report or a

1 summary thereof covering the investments of the fund.

2 (12) (a) An annual financial-compliance audit of the system,  
3 including any performance audit subjects which are directed to be included  
4 in such annual audit by the legislative post audit committee, performance  
5 audits of the system as prescribed under the Kansas governmental  
6 operations law, and such other audits as are directed by the legislative post  
7 audit committee under the Kansas legislative post audit act shall be  
8 conducted. The annual financial-compliance audit shall include, but not be  
9 limited to, a review of alternative investments of the system with any  
10 estimates of permanent impairments to the value of such alternative  
11 investments reported by the system pursuant to K.S.A. 74-4907, and  
12 amendments thereto.

13 (b) In accordance with this subsection (12), the annual financial-  
14 compliance audit may include one or more performance audit subjects as  
15 directed by the legislative post audit committee. In considering  
16 performance audit subjects to be included in any financial-compliance  
17 audit conducted pursuant to this subsection (12), the legislative post audit  
18 committee shall consider recommendations and requests for performance  
19 audits, relating to the system or the management thereof, ~~by the joint~~  
20 ~~committee on pensions, investments and benefits or by any other~~  
21 ~~committee or individual member of the legislature.~~ Commencing with the  
22 financial-compliance audit for the fiscal year ending June 30, 1998, the  
23 legislative post audit committee shall specify if one or more performance  
24 audit subjects shall be included in the financial-compliance audit  
25 conducted pursuant to this subsection (12), in addition to such other  
26 subjects as may be directed to be included in the financial-compliance  
27 audit by the legislative post audit committee. Except as otherwise  
28 determined by the legislative post audit committee pursuant to this  
29 subsection (12), commencing with the financial-compliance audit for the  
30 fiscal year ending June 30, 1998, one or more performance audit subjects  
31 specified by the legislative post audit committee shall be included at least  
32 once every two fiscal years in a financial-compliance audit conducted  
33 pursuant to this subsection (12). The legislative post audit committee may  
34 direct that one or more performance audit subjects are to be included in a  
35 financial-compliance audit conducted pursuant to this subsection (12) not  
36 more than once during a specific period of three fiscal years, in lieu of  
37 once every two fiscal years.

38 (c) The auditor to conduct the financial-compliance audit required  
39 pursuant to this subsection (12) shall be specified in accordance with  
40 K.S.A. 46-1122, and amendments thereto. If the legislative post audit  
41 committee specifies under such statute that a firm, as defined by K.S.A.  
42 46-1112, and amendments thereto, is to perform all or part of the audit  
43 work of such audit, such firm shall be selected and shall perform such

1 audit work as provided in K.S.A. 46-1123, and amendments thereto, and  
2 K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits  
3 required pursuant to this subsection (12) shall be conducted in accordance  
4 with generally accepted governmental auditing standards. The financial-  
5 compliance audit required pursuant to this subsection (12) shall be  
6 conducted as soon after the close of the fiscal year as practicable, but shall  
7 be completed no later than six months after the close of the fiscal year. The  
8 post auditor shall annually compute the reasonably anticipated cost of  
9 providing the financial-compliance audit pursuant to this subsection (12),  
10 subject to review and approval by the contract audit committee established  
11 by K.S.A. 46-1120, and amendments thereto. Upon such approval, the  
12 system shall reimburse the division of post audit for the amount approved  
13 by the contract audit committee. The furnishing of the financial-  
14 compliance audit pursuant to this subsection (12) shall be a transaction  
15 between the legislative post auditor and the system and shall be settled in  
16 accordance with the provisions of K.S.A. 75-5516, and amendments  
17 thereto.

18 (d) Any internal assessment or examination of alternative investments  
19 of the system performed by any person or entity employed or retained by  
20 the board which evaluates or monitors the performance of alternative  
21 investments shall be reported to the legislative post auditor so that such  
22 report may be reviewed in accordance with the annual financial-  
23 compliance audits conducted pursuant to this subsection (12).

24 (e) The board shall prepare and submit an alternative investment  
25 report to the ~~joint committee on pensions, investments and benefits~~  
26 *standing committee on pensions and benefits of the house of*  
27 *representatives* prior to January 1, 2016. Such report shall include a review  
28 of alternative investments of the system with an emphasis on the effects of  
29 changes in law pursuant to this act and includes specific investment cost  
30 and market value information of each individual alternative investment.

31 Sec. ~~15~~**14**. K.S.A. 2012 Supp. 74-4921c is hereby amended to read  
32 as follows: 74-4921c.-*(a)* As used in K.S.A. 2012 Supp. 74-4921c and 74-  
33 4921d, and amendments thereto:

34 (1) "Active business operations" means a company engaged in  
35 business operations that provide revenue to the government of Sudan or a  
36 company engaged in oil-related activities;

37 (2) "board" means the board of trustees of the Kansas public  
38 employees retirement system;

39 (3) "business operations" means maintaining, selling or leasing  
40 equipment, facilities, personnel, or any other apparatus of business or  
41 commerce in Sudan, including the ownership or possession of real or  
42 personal property located in Sudan;

43 (4) "company" means a sole proprietorship, organization, association,



1 corporation, partnership, venture or other entity, its subsidiary or affiliate  
2 that exists for profitmaking purposes or to otherwise secure economic  
3 advantage. "Company" also means a company owned or controlled, either  
4 directly or indirectly, by the government of Sudan, that is established or  
5 organized under the laws of or has its principal place of business in the  
6 republic of the Sudan;

7 (5) "complicity" means the taking of actions which have directly  
8 supported or promoted the genocidal campaign in Darfur;

9 (6) "energy or power-related operations" means any business  
10 operation that involves a project commissioned by the national electricity  
11 corporation of Sudan or similar Sudanese entity whose purpose is to  
12 facilitate energy or power generation and delivery;

13 (7) "government of Sudan" means the government of Sudan or its  
14 instrumentalities;

15 (8) "invest" or "investment" means the purchase, ownership or  
16 control of stock of a company, association or corporation, the capital stock  
17 of a mutual water company or corporation, bonds issued by the  
18 government or a political subdivision of Sudan, corporate bonds or other  
19 debt instruments issued by a company, or the commitment of funds or  
20 other assets to a company, including a loan or extension of credit to that  
21 company;

22 (9) "KPERS fund" means the Kansas public employees retirement  
23 fund created pursuant to the provisions of K.S.A. 74-4921, and  
24 amendments thereto;

25 (10) "military equipment" means weapons, arms or military defense  
26 supplies;

27 (11) "mineral extraction activities" includes, but is not limited to, the  
28 exploring, extracting, processing, transporting or wholesale selling or  
29 trading of elemental minerals or associated metal alloys or oxides or ore;

30 (12) "oil-related activities" means, but is not limited to, the export of  
31 oil, extracting or producing oil, exploration for oil, or the construction or  
32 maintenance of a pipeline, refinery, or other oil field infrastructure;

33 (13) "research firm" means a reputable, neutral third-party research  
34 firm;

35 (14) "substantial action" means a boycott of the government of  
36 Sudan, curtailing business in Sudan until that time described in subsection  
37 (m), selling company assets, equipment or real and personal property  
38 located in Sudan, or undertaking significant humanitarian efforts in the  
39 eastern, southern, or western regions of Sudan; and

40 (15) "Sudan" means the republic of the Sudan, a territory under the  
41 administration or control of the Sudan, including, but not limited to, the  
42 Darfur region, or an individual, company, or public agency located in  
43 Khartoum, northern Sudan, or the Nile River Valley that supports the

1 republic of the Sudan.

2 (b) The board shall not invest KPERS funds in a company with  
3 business operations in Sudan that meets all of the following criteria:

4 (1) The company is engaged in active business operations in Sudan.  
5 If that company is not engaged in oil-related activities, that company also  
6 lacks significant business operations in the eastern, southern and western  
7 regions of Sudan; and

8 (2) either of the following apply:

9 (A) The company is engaged in oil-related activities, mineral  
10 extraction activities or energy or power-related operations, or contracts  
11 with another company with business operations in the oil, mineral  
12 extraction, energy and power sectors of Sudan, and the company failed to  
13 take substantial action related to the government of Sudan because of the  
14 Darfur genocide; or

15 (B) the company has demonstrated complicity in the Darfur genocide.

16 (c) Notwithstanding subsection (b), the board shall not invest KPERS  
17 funds in a company that supplies military equipment within the borders of  
18 Sudan. If a company provides equipment within the borders of Sudan that  
19 may be readily used for military purposes, including, but not limited to,  
20 radar systems and military-grade transport vehicles, there shall also be a  
21 strong presumption against investing in that company unless that company  
22 implements safeguards to prevent the use of that equipment for military  
23 purposes.

24 (d) (1) The board may contract with a research firm or firms to  
25 determine those companies that have business operations in Sudan. Such  
26 research firm or firms may obtain aggregate data on a majority of  
27 companies with business operations in Sudan. On or before September 30,  
28 2007, such research firm or firms may report any findings to the board and  
29 may submit further findings to the board if there is a change of  
30 circumstances in Sudan.

31 (2) In addition to the reports described in subsection (d)(1), the board  
32 shall take all of the following actions no later than September 30, 2007:

33 (A) Review publicly available information regarding companies with  
34 business operations in Sudan;

35 (B) contact other institutional investors that invest in companies with  
36 business operations in Sudan; and

37 (C) send written notice to a company with business operations in  
38 Sudan that the company may be subject to this section.

39 (e) (1) The board shall determine, by the next applicable board  
40 meeting and based on the information and reports described in subsection  
41 (d), if a company meets the criteria described in subsection (b) or (c). If  
42 the board plans to invest or has investments in a company that meets the  
43 criteria described in subsection (b) or (c), that planned or existing

1 investments shall be subject to subsections (g) and (h).

2 (2) Investments of the board in a company that does not meet the  
3 criteria described in subsection (b) or (c) or does not have active business  
4 operations in Sudan are not subject to subsection (h), provided that the  
5 company does not subsequently meet the criteria described in subsection  
6 (b) or (c) or engage in active business operations. The board shall identify  
7 the reasons why that company does not satisfy the criteria described in  
8 subsection (b) or (c) or does not engage in active business operations in the  
9 report to the ~~joint committee on pensions, investments and benefits~~  
10 *standing committee on pensions and benefits of the house of*  
11 *representatives* described in subsection (i).

12 (f) (1) The board shall not be required to divest passively managed  
13 commingled funds when the estimated annual costs of divestment exceed  
14 5% of the total value of scrutinized companies with active business  
15 operations held in the fund and the ratio holds for at least six months time.  
16 ~~Such an estimate should be submitted in a report to the joint committee on~~  
17 ~~pensions, investments, and benefits before the exemption is exercised. The~~  
18 ~~report should be updated semi-annually thereafter as applicable.~~

19 (2) Notwithstanding subsection (e), if the board's investment in a  
20 company described in subsection (b) or (c) is limited to investment via an  
21 externally and actively managed commingled fund, the board shall contact  
22 that fund manager in writing and request that the fund manager remove  
23 that company from the KPERS fund as described in subsection (h). If the  
24 KPERS fund or account manager creates a fund or account devoid of  
25 companies described in subsection (b) or (c), the transfer of board  
26 investments from the prior fund or account to the fund or account devoid  
27 of companies with business operations in Sudan shall be deemed to satisfy  
28 subsection (h).

29 (3) If the board's investment in a company described in subsection (b)  
30 or (c) is limited to an alternative fund or account, the alternative fund or  
31 account manager creates an actively managed commingled fund that  
32 excludes companies described in subsection (b) or (c), and the new fund or  
33 account is deemed to be financially equivalent to the existing fund or  
34 account, the transfer of board investments from the existing fund or  
35 account to the new fund or account shall be deemed to satisfy subsection  
36 (h). If the board determines that the new fund or account is not financially  
37 equivalent to the existing fund, the board shall include the reasons for that  
38 determination in the report described in subsection (i).

39 (4) The board shall make a good faith effort to identify any private  
40 equity investments that involve companies described in subsection (b) or  
41 (c) or are linked to the government of Sudan. If the board determines that a  
42 private equity investment clearly involves a company described in  
43 subsection (b) or (c) or is linked to the government of Sudan, the board

1 shall consider, at its discretion, if those private equity investments shall be  
2 subject to subsection (h). If the board determines that a private equity  
3 investment clearly involves a company described in subsection (b) or (c)  
4 or is linked to the government of Sudan and the board does not take action  
5 as described in subsection (h), the board shall include the reasons for its  
6 decision in the report described in subsection (i).

7 (g) Except as described in subsection (f) or subsection (e)(2), the  
8 board, in the board's capacity of shareholder or investor, shall notify any  
9 company described in subsection (e)(1) that the company is subject to  
10 subsection (h) and permit that company to respond to the information and  
11 reports described in subsection (d). The board shall request that the  
12 company take substantial action no later than 90 days from the date the  
13 board notified the company under this subsection. If the board determines  
14 that a company has taken substantial action or has made sufficient progress  
15 towards substantial action before the expiration of that 90-day period, that  
16 company shall not be subject to subsection (h). The board shall, at  
17 intervals not to exceed 90 days, continue to monitor and review the  
18 progress of the company until that company has taken substantial action in  
19 Sudan. A company that fails to complete substantial action or continue to  
20 make sufficient progress towards substantial action by the next time  
21 interval shall be subject to subsection (h).

22 (h) If a company described in subsection (e)(1) fails to complete  
23 substantial action by the time described in subsection (g), the board shall  
24 take the following actions:

25 (1) The board shall not make additional or new investments or renew  
26 existing investments in that company.

27 (2) The board shall liquidate the investments of the board in that  
28 company no later than 18 months after this subsection applies to that  
29 company. The board shall liquidate those investments in a manner to  
30 address the need for companies to take substantial action in Sudan and  
31 consistent with the board's fiduciary responsibilities as provided in K.S.A.  
32 74-4921, and amendments thereto.

33 (i) On or before June 30, 2008, and every year thereafter, the board  
34 shall file a report with the ~~joint committee on pensions, investments and~~  
35 ~~benefits~~ *standing committee on pensions and benefis of the house of*  
36 *representatives*. The report shall describe the following:

37 (1) A list of investments the board has in companies with business  
38 operations in Sudan, including, but not limited to, the issuer, by name, of  
39 the stock, bonds, securities and other evidence of indebtedness;

40 (2) a detailed summary of the business operations a company  
41 described in subsection (i)(1) has in Sudan and whether that company  
42 satisfies all of the criteria in subsection (b) or (c);

43 (3) whether the board has reduced KPERS fund investments in a

1 company that satisfies the criteria in subsection (b) or (c);

2 (4) if the board has not completely reduced KPERS fund investments  
3 in a company that satisfies the criteria in subsection (b) or (c), when the  
4 board anticipates that the board will reduce all investments in that  
5 company or the reasons why a sale or transfer of investments is  
6 inconsistent with the fiduciary responsibilities of the board as provided in  
7 K.S.A. 74-4921, and amendments thereto;

8 (5) any information described in subsection (e); and

9 (6) a detailed summary of investments that were transferred to funds  
10 or accounts devoid of companies with business operations in Sudan as  
11 described in subsection (f).

12 (j) If the board voluntarily sells or transfers all KPERS fund  
13 investments in a company with business operations in Sudan, this section  
14 shall not apply except that the board shall file a report with the legislature  
15 related to that company as described in subsection (i).

16 (k) Nothing in this section shall require the board to take action as  
17 described in this section unless the board determines, in good faith, that  
18 the action described in this section is consistent with the fiduciary  
19 responsibilities of the board as provided in K.S.A. 74-4921, and  
20 amendments thereto.

21 (l) Subsection (h) shall not apply to any of the following:

22 (1) Investments in a company that is primarily engaged in supplying  
23 goods or services intended to relieve human suffering in Sudan, and the  
24 supplying of such goods and services is done in conjunction with an  
25 international organization, the government of Sudan, the regional  
26 government of Southern Sudan or a non-profit entity, and is evaluated and  
27 certified by an independent third party to be substantial in relationship to  
28 the business operations of the company in Sudan and of benefit to one or  
29 more marginalized populations of Sudan;

30 (2) investments in a company that promotes health, education,  
31 journalistic or religious activities in or welfare in the western, eastern or  
32 southern regions of Sudan; and

33 (3) investments in a United States company that is authorized by the  
34 federal government to have business operations in Sudan.

35 (m) This section shall remain in effect only until one of the following  
36 occurs, and as of the date of that action, is repealed:

37 (1) The government of Sudan halts the genocide in Darfur for 12  
38 months as determined by both the department of state and the congress of  
39 the United States; or

40 (2) the United States revokes its current sanctions against Sudan.

41 Sec. ~~16~~**15**. K.S.A. 2012 Supp. 74-4937 is hereby amended to read  
42 as follows: 74-4937. (1) The normal retirement date of a member of the  
43 system who is in school employment and who is subject to K.S.A. 74-

1 4940, and amendments thereto, shall be the first day of the month  
2 coinciding with or following termination of employment not followed by  
3 employment with any participating employer within 60 days and the  
4 attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with  
5 the completion of 35 years of credited service or at any age with the  
6 completion of 40 years of credited service, or commencing July 1, 1993,  
7 any alternative normal retirement date already prescribed by law or age 62  
8 with the completion of 10 years of credited service or the first day of the  
9 month coinciding with or following the date that the total of the number of  
10 years of credited service and the number of years of attained age of the  
11 member is equal to or more than 85. Each member upon giving prior  
12 notice to the appointing authority and the retirement system may retire on  
13 the normal retirement date or the first day of any month thereafter.

14 (2) Any member who is in school employment and who is subject to  
15 K.S.A. 74-4940, and amendments thereto, may retire before such  
16 member's normal retirement date on the first day of the month coinciding  
17 with or following termination of employment not followed by employment  
18 with any participating employer within 60 days and the attainment of age  
19 55 with the completion of 10 years of credited service, upon the filing with  
20 the office of the retirement system of an application for retirement in such  
21 form and manner as the board shall prescribe.

22 (3) Commencing July 1, 2009, the provisions of subsection (5) of  
23 K.S.A. 74-4914, and amendments thereto, which relate to an earnings  
24 limitation which when met or exceeded requires that the retirant not  
25 receive a retirement benefit for any month for which such retirant serves in  
26 a position as described herein shall not apply to retirants who either retired  
27 under the provisions of subsection (1) of K.S.A. 74-4914, and amendments  
28 thereto, related to normal retirement, or, if they retired under the  
29 provisions of subsection (4) of K.S.A. 74-4914, and amendments thereto,  
30 related to early retirement, were retired more than 60 days prior to the  
31 effective date of this act, and are subsequently hired in a position that  
32 requires a license under K.S.A. 72-1388, and amendments thereto, or other  
33 provision of law. The provisions of this subsection do not apply to retirants  
34 who retired under subsection (4) of K.S.A. 74-4914, and amendments  
35 thereto, which relates to early retirement prior to age 62. Except as  
36 otherwise provided, when a retirant is employed by the same school  
37 district or a different school district with which such retirant was employed  
38 during the final two years of such retirant's participation or employed by a  
39 third-party entity who contracts services with a school district to fill a  
40 position as described in this subsection, the participating employer of such  
41 retirant shall pay to the system the actuarially determined employer  
42 contribution based on the retirant's compensation during any such period  
43 of employment plus 8%. The provisions of this subsection shall not apply

1 to retirants employed as substitute teachers. The provisions of subsection  
2 (5) of K.S.A. 74-4914, and amendments thereto, shall be applicable to  
3 retirants employed as described in this subsection, except as specifically  
4 provided in this subsection. Nothing in this subsection shall be construed  
5 to create any right, or to authorize the creation of any right, which is not  
6 subject to amendment or nullification by act of the legislature. The  
7 provisions of this subsection shall expire on July 1, 2015. After such date  
8 the Kansas public employees retirement system and its actuary shall report  
9 the experience to the ~~joint committee on pensions, investments and~~  
10 ~~benefits~~ *standing committee on pensions and benefits of the house of*  
11 *representatives.*

12 Sec. ~~47~~**16**. K.S.A. 2012 Supp. 74-49,129 is hereby amended to read  
13 as follows: 74-49,129. (a) For the purpose of financing a portion of the  
14 unfunded actuarial pension liability of the Kansas public employees  
15 retirement system, the Kansas development finance authority is hereby  
16 authorized to issue one or more series of revenue bonds under the Kansas  
17 development finance authority act in an amount necessary to provide a  
18 deposit or deposits in a total amount not to exceed \$500,000,000 to the  
19 Kansas public employees retirement system and to pay the costs of  
20 issuance of the bonds, including any credit enhancement, and provide any  
21 required reserves for the bonds. The principal amount, interest rates and  
22 final maturity of such revenue bonds and any bonds issued to refund such  
23 bonds or parameters for such principal amount, interest rates and final  
24 maturity shall be approved by a resolution of the state finance council. The  
25 state finance council shall review and determine the lowest cost method  
26 for financing such bonds, including, but not limited to, issues related to the  
27 tax status of the bonds. The bonds, and interest thereon, issued pursuant to  
28 this section shall be payable from moneys appropriated by the state for  
29 such purpose. The bonds and interest thereon, issued pursuant to this  
30 section shall be obligations only of the authority and in no event shall such  
31 bonds constitute an indebtedness or obligation of the Kansas public  
32 employees retirement system or an indebtedness or obligation for which  
33 the faith and credit or any assets of the system are pledged.

34 (b) As used in this section, "unfunded actuarial pension liability"  
35 means the unfunded actuarially accrued liability of the state for the state of  
36 Kansas and participating employers under K.S.A. 74-4931, and  
37 amendments thereto, portion of such liability of the Kansas public  
38 employees retirement system, determined as of the later of December 31,  
39 2001, or the end of the most recent calendar year for which an actuarial  
40 valuation report is available and certified to the Kansas development  
41 finance authority by the executive secretary of the Kansas public  
42 employees retirement system.

43 (c) (1) The authority may pledge the contract or contracts authorized

1 in subsection (d), or any part thereof, for the payment or redemption of the  
2 bonds, and covenant as to the use and disposition of money available to  
3 the authority for payments of the bonds. The authority is authorized to  
4 enter into any agreements necessary or desirable to effectuate the purposes  
5 of this section.

6 (2) The proceeds from the sale of the bonds, other than refunding  
7 bonds, issued pursuant to this section, after payment of any costs related to  
8 the issuance of such bonds, shall be paid by the authority to the Kansas  
9 public employees retirement system to be applied to the payment, in full or  
10 in part, of the unfunded accrued pension liability as directed by the Kansas  
11 public employees retirement system.

12 (3) The state hereby pledges and covenants with the holders of any  
13 bonds issued pursuant to the provisions of this section, that it will not limit  
14 or alter the rights or powers vested in the authority by this section, nor  
15 limit or alter the rights or powers of the authority, the department of  
16 administration or the Kansas public employees retirement system, in any  
17 manner which would jeopardize the interest of the holders or any trustee of  
18 such holders or inhibit or prevent performance or fulfillment by the  
19 authority, the department of administration or the Kansas public employees  
20 retirement system with respect to the terms of any agreement made with  
21 the holders of the bonds or agreements made pursuant to this section,  
22 except that the failure of the legislature to appropriate moneys for any  
23 purpose shall not be deemed a violation of this pledge and covenant. The  
24 department of administration is hereby specifically authorized to include  
25 this pledge and covenant in any agreement with the authority. The  
26 authority is hereby specifically authorized to include this pledge and  
27 covenant in any bond resolution, trust indenture or agreement for the  
28 benefit of holders of the bonds.

29 (4) Revenue bonds may be issued pursuant to this section without  
30 obtaining the consent of any department, division, commission, board or  
31 agency of the state, other than the approvals of the state finance council  
32 required by this section, and without any other proceedings or the  
33 occurrence of any other conditions or other things other than those  
34 proceedings, conditions or things which are specifically required by the  
35 Kansas development finance authority act.

36 (d) The department of administration and the authority are authorized  
37 to enter into one or more contracts to implement the payment arrangement  
38 that is provided for in this section. The contract or contracts shall provide  
39 for payment of the amounts required to be paid pursuant to this section and  
40 shall set forth the procedure for the transfer of moneys for the purpose of  
41 paying such moneys. The contract or contracts shall contain such terms  
42 and conditions including principal amount, interest rates and final maturity  
43 as shall be approved by resolution of the state finance council and shall



1 include, but not be limited to, terms and conditions necessary or desirable  
2 to provide for repayment of and to secure any bonds of the authority issued  
3 pursuant to this section.

4 (e) The approvals by the state finance council required by subsection  
5 (a) and (d) are hereby characterized as matters of legislative delegation and  
6 subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c,  
7 and amendments thereto. Such approvals may be given by the state finance  
8 council when the legislature is in session.

9 (f) No bonds shall be issued pursuant to this section prior to the  
10 review of and recommendation to the state finance council of such  
11 issuance by the ~~joint committee on pensions, investments and benefits~~  
12 *standing committee on pensions and benefits of the house of*  
13 *representatives*.

14 Sec. ~~18~~**17**. K.S.A. 2012 Supp. 74-5001a is hereby amended to read  
15 as follows: 74-5001a. The purpose of the department of commerce shall be  
16 to develop and implement strategies to:

17 (a) Facilitate the growth, diversification and expansion of existing  
18 enterprises and the creation by Kansans of new wealth-generating  
19 enterprises;

20 (b) promote economic diversification and innovation within the basic  
21 industries and sectors of the state;

22 (c) promote increased productivity and value added products,  
23 processes and services among wealth-generating enterprises and the export  
24 of those goods and services created by small and large Kansas enterprises  
25 to the nation and world;

26 (d) maintain and revitalize economically depressed rural areas and  
27 urban neighborhoods by annually targeting scarce resources by size, sector  
28 and location to communities and enterprises of particular need and  
29 opportunity and by working in close collaboration with local communities;

30 (e) protect and enhance the environmental quality of the state in ways  
31 consistent with dynamic economic growth; and

32 (f) forge a supportive partnership with the standing committee on  
33 commerce of the senate, the standing committee on *commerce, labor and*  
34 *economic development* of the house of representatives ~~and the joint~~  
35 ~~committee on economic development~~, Kansas venture capital, inc., Kansas  
36 certified development companies, Kansas small business development  
37 centers, Kansas public and private educational institutions, and other  
38 appropriate private and public sector organizations in achieving the  
39 economic goals of the state.

40 Sec. ~~19~~**18**. K.S.A. 2012 Supp. 74-5002s is hereby amended to read  
41 as follows: 74-5002s. (a) There is hereby established, within the Kansas  
42 department of commerce, a division of workforce development. The head  
43 of the division shall be the director of workforce development, who shall

1 be appointed by and serve at the pleasure of the secretary of the  
2 department of commerce. The director shall be in the unclassified service  
3 under the Kansas civil service act and shall receive an annual salary fixed  
4 by the secretary of commerce, with the approval of the governor. Under  
5 the supervision of the secretary of commerce, the director of workforce  
6 development shall administer the division of workforce development.

7 (b) The monitoring unit of the division of workforce development  
8 shall report annually, on or before January 15, to the senate committee on  
9 commerce, the house committee on *commerce, labor and economic*  
10 ~~development and tourism and the joint committee on economic~~  
11 ~~development~~, and any successor committees thereto, on the monitoring  
12 activities of the division during the preceding calendar year, any problems  
13 within workforce development activities, compliance with federal and  
14 state requirements and such other matters concerning workforce  
15 development which the monitoring unit deems appropriate.

16 Sec. ~~20~~**19**. K.S.A. 2012 Supp. 74-5049 is hereby amended to read  
17 as follows: 74-5049. (a) In order to insure that the department of  
18 commerce is effectively administering this act, the department shall  
19 cooperate with the standing committee on commerce of the senate; ~~and the~~  
20 ~~standing committee on new economy commerce, labor and economic~~  
21 ~~development~~ of the house of representatives ~~and the joint committee on~~  
22 ~~economic development~~ in the performance of an independent performance  
23 review of the activities of the department and the departmental divisions.  
24 The review shall include, but not be limited to: (1) An assessment of the  
25 impacts of the department's programs corresponding to the strategic plans  
26 of the department and the departmental divisions; (2) a comparative  
27 assessment of the relative impact of the department's programs with  
28 similar programs in other states; and (3) a comparative assessment of the  
29 targeting of the department's programs by size and sector of economic  
30 activity, and by location in different areas of the state. The review shall be  
31 completed or updated at least once every three years.

32 (b) On or before October 1, the department shall prepare and publish  
33 an annual report, which shall be made widely available, of its activities  
34 and expenditures for the information of the governor, the standing  
35 committee on commerce of the senate, the standing committee on ~~new~~  
36 ~~economy commerce, labor and economic development~~ of the house of  
37 representatives, ~~the joint committee on economic development~~, and the  
38 public, and shall, from time to time, submit recommendations to the  
39 governor concerning legislation found to be necessary or desirable in  
40 effecting the purposes of this act. The annual report shall include any  
41 information which the department is required to report by law. The annual  
42 report shall specifically account for the ways in which the purposes of the  
43 department and its divisions as described in this act have been achieved,

1 and the recommendations shall specifically note what changes in the  
2 activities of the department and its divisions, and of state government are  
3 necessary to better address the purposes described in this act. The annual  
4 report to the standing committee on commerce of the senate; *and* the  
5 standing committee on ~~new economy~~ *commerce, labor and economic*  
6 *development* of the house of representatives ~~and the joint committee on~~  
7 ~~economic development~~ shall be made by the department either: (1) By  
8 publishing such report on the internet and by notifying each member of the  
9 committees that the report is available and providing, as part of such  
10 notice, the uniform resource locator (URL) at which such report is  
11 available; or (2) by submitting copies of such report on CD-ROM or other  
12 electronically readable media to such committees.

13 Sec. ~~24~~**20**. K.S.A. 2012 Supp. 74-5097 is hereby amended to read  
14 as follows: 74-5097. (a) Subject to the provisions of appropriations acts  
15 and in accordance with the provisions of this act, the department of  
16 commerce may provide planning grants and action grants to city-county  
17 economic development organizations located in nonmetropolitan counties,  
18 for the development and implementation of countywide economic  
19 development strategy plans or to neighborhood revitalization  
20 organizations, in metropolitan counties, for the planning and  
21 implementation of urban economic development plans.

22 (b) The committee shall establish grant eligibility criteria for  
23 applicants in both metropolitan and nonmetropolitan counties, and shall  
24 administer the competitive selection process for the awarding of planning  
25 grants and action grants. The committee shall submit its recommendations  
26 for grant awards to the secretary of commerce for final determination and  
27 award.

28 (1) Grant applicants from nonmetropolitan counties shall be subject  
29 to the following conditions. Planning grants shall be for the development  
30 of countywide economic development strategy plans. No planning grant  
31 shall exceed \$15,000 for any single county economic development plan.  
32 An additional award for an amount not to exceed \$5,000 may be granted  
33 for each additional county participating in the development of a joint  
34 multi-county strategic economic development plan, except that under no  
35 circumstances shall the total planning grant exceed \$35,000. Any city-  
36 county economic development organization receiving a planning grant  
37 shall be required to provide additional funds equaling 25% of the amount  
38 of the planning grant. Action grants shall be for the implementation of  
39 countywide economic development strategy plans. Total action grants shall  
40 not exceed \$25,000 for any single county action grant application. An  
41 additional award for an amount not to exceed \$10,000 may be granted for  
42 each additional county participating in a joint multi-county action grant  
43 implementation effort, except that under no circumstances shall the action

1 grant totals exceed \$65,000. Any city-county economic development  
2 organization receiving a grant shall be required to provide additional funds  
3 equaling 100% of the amount of the action grant. Not more than one  
4 planning grant may be awarded to any one county or combination of  
5 counties.

6 (2) Neighborhood revitalization organizations from metropolitan  
7 counties shall be subject to the following conditions. Prior to applying to  
8 the committee, the neighborhood revitalization organization must submit  
9 its application to a local economic development organization designated  
10 by the county commission of the county in which the organization is  
11 located. The local economic development organization shall review the  
12 application and determine whether the application should be funded on the  
13 basis of local needs and priorities. If the application is approved by the  
14 local economic development organization and endorsed by resolution by  
15 the county commission and the governing body of the city in which the  
16 blighted area is located, the application shall be forwarded to the  
17 committee for further consideration. Planning grants shall be for the  
18 development of urban economic development strategy plans. No planning  
19 grant shall exceed \$15,000 for any single urban economic development  
20 plan. Any neighborhood revitalization organization receiving a planning  
21 grant shall be required to provide additional funds equaling 25% of the  
22 amount of the planning grant. Action grants shall be for the  
23 implementation of urban economic development strategy plans. Total  
24 action grants shall not exceed \$25,000 for any single urban action grant  
25 application. Any neighborhood revitalization organization receiving a  
26 grant shall be required to provide additional funds equaling 100% of the  
27 amount of the action grant. Not more than one planning grant may be  
28 awarded to any one neighborhood revitalization organization.

29 (3) No funds shall be granted under this act to applicants from  
30 metropolitan counties unless such funds are specifically appropriated for  
31 that purpose.

32 (4) The secretary of commerce may authorize a recipient of a  
33 planning grant, who has unexpended funds from such planning grant, to  
34 apply such funds to the implementation of the recipient's approved  
35 strategic economic development plan. Any unexpended planning grant  
36 funds applied to the implementation of such strategic economic  
37 development plan shall require the appropriate 100% match. Application  
38 of the unexpended planning grant funds to the implementation of the  
39 strategic economic development plan may result in the reduction of any  
40 subsequent action grant awarded to the recipient.

41 (c) The secretary of commerce may enter into an agreement with  
42 economic development service providers to provide reimbursement to  
43 such providers for expenses incurred in strategic planning activities which

1 do not relate to the facilitation of a specific strategic plan. Such activities  
2 may include, but are not limited to, preapplication consulting and  
3 maintenance of economic development data bases. Such expenses shall be  
4 paid on a per project basis and must be preapproved by the secretary.

5 (d) Each city-county economic development organization or  
6 neighborhood revitalization organization which has received a planning  
7 grant beginning on and after July 1, 1990, shall assess the effectiveness of  
8 the strategic planning process under this program and the local  
9 preparedness in engaging in such process. Such assessment shall be  
10 submitted to the Kansas department of commerce within three months  
11 after completion of a strategic plan. The status report developed pursuant  
12 to subsection (f) shall include a summary of all strategic plan assessments  
13 received for a twelve-month period prior to the submittal of the report to  
14 ~~the joint committee on economic development~~ *standing committee on*  
15 *commerce of the senate and the standing committee on commerce, labor*  
16 *and economic development of the house of representatives.* However, the  
17 summary may not include assessments submitted within 30 days of the  
18 submittal of the department's report. Any such assessments shall be  
19 included in a subsequent annual report.

20 (e) Each city-county economic development organization or  
21 neighborhood revitalization organization which has received an action  
22 grant beginning on and after July 1, 1990, shall assess the extent to which  
23 goals identified in its action plan application have been met. Such  
24 assessment shall rely on quantifiable criteria to the greatest possible  
25 degree. Such assessment shall be submitted to the Kansas department of  
26 commerce within three months after intended actions identified for  
27 implementation in the action grant application have been undertaken. The  
28 status report developed pursuant to subsection (f) shall include a summary  
29 of all action plan assessments received for a twelve-month period prior to  
30 the submittal of the report to the ~~joint committee on economic~~  
31 ~~development~~ *standing committee on commerce of the senate and the*  
32 *standing committee on commerce, labor and economic development of the*  
33 *house of representatives.* However, the summary may not include  
34 assessments submitted within 30 days of the submittal of the department's  
35 report. Any such assessments shall be included in a subsequent annual  
36 report.

37 (f) As a part of the annual report required pursuant to K.S.A. 74-  
38 5049, and amendments thereto, the Kansas department of commerce shall  
39 present a status report of activities including, but not limited to, specifics  
40 of community strengths and weaknesses and planning issues and strategies  
41 under the provisions of this act to the ~~joint committee on economic~~  
42 ~~development~~ *standing committee on commerce of the senate and the*  
43 *standing committee on commerce, labor and economic development of the*

1 *house of representatives.*

2 Sec. ~~22~~{21}. K.S.A. 2012 Supp. 74-50,123 is hereby amended to read  
3 as follows: 74-50,123. (a) The secretary shall transmit annually to the  
4 governor, the standing committee on commerce of the senate; *and* the  
5 standing committee on *commerce, labor and* economic development ~~and~~  
6 ~~tourism~~ of the house of representatives ~~and the joint committee on~~  
7 ~~economic development~~, or any successor committee, a report, based upon  
8 information received from each qualified industrial manufacturer for  
9 which benefits have been issued during the preceding year, describing the  
10 following: (1) The manner in which the purpose, as described in this act,  
11 has been carried out;

12 (2) an estimate of jobs created and jobs preserved by cash  
13 investments made in qualified industrial manufacturers; and

14 (3) an estimate of the multiplier effect on the Kansas economy of the  
15 cash investments made pursuant to this act.

16 (b) The secretary shall conduct an annual review of the activities  
17 undertaken pursuant to this act to ensure that benefits issued pursuant to  
18 this act are issued in compliance with the provisions of this act or rules and  
19 regulations adopted by the department with respect to this act.

20 (c) Any violation of the reporting requirements set forth in the  
21 agreement shall be grounds for loss of designation as a qualified industrial  
22 manufacturer under this section.

23 (d) If the secretary determines that a qualified industrial manufacturer  
24 is not in substantial compliance with the requirements of this act, the  
25 secretary, by written notice, shall inform the officers of the qualified  
26 industrial manufacturer that such qualified industrial manufacturer shall  
27 lose its designation as a qualified industrial manufacturer unless such  
28 qualified industrial manufacturer corrects the deficiencies and is once  
29 again in compliance with the requirements for designation.

30 Sec. ~~23~~{22}. K.S.A. 2012 Supp. 74-50,151 is hereby amended to read  
31 as follows: 74-50,151. (a) There is hereby created in the state treasury the  
32 Kansas economic opportunity initiatives fund. Subject to acts of the  
33 legislature applicable thereto, the moneys in the Kansas economic  
34 opportunity initiatives fund shall be used only for the purposes prescribed  
35 by this section.

36 (b) All expenditures made pursuant to this act shall be made in  
37 accordance with appropriations acts upon warrants of the director of  
38 accounts and reports issued pursuant to vouchers approved by the  
39 governor or the governor's designee. The governor may approve a warrant  
40 upon certification, by the secretary of commerce, that an economic  
41 emergency or unique opportunity exists which warrant funding for a  
42 strategic economic intervention by such state agency or agencies to  
43 address expenses involved in securing economic benefits or avoiding or

1 remedying economic losses related to:

- 2 (1) A major expansion of an existing Kansas commercial enterprise;
- 3 (2) the potential location in Kansas of the operations of a major  
4 employer;
- 5 (3) the award of a significant federal or private sector grant which has  
6 a financial matching requirement;
- 7 (4) the departure from Kansas or the substantial reduction of the  
8 operations of a major employer; and
- 9 (5) the closure or the substantial reduction of a major federal or state  
10 institution or facility.

11 (c) An intervention strategy may include financial assistance in the  
12 form of grants, loans or both. The department of commerce shall adopt  
13 written guidelines concerning the terms and conditions of any such loans.  
14 However, all repaid funds shall be credited to the Kansas economic  
15 opportunity initiatives fund. No intervention strategy approved pursuant to  
16 this act shall facilitate the moving of an existing Kansas firm to another  
17 location within the state unless such restriction is waived by the secretary  
18 of commerce. Every intervention strategy approved pursuant to this act  
19 shall identify the intended outcomes to be realized by the strategy for  
20 which funding is sought.

21 (d) The department of commerce shall make findings concerning the  
22 costs and benefits, on both a local and statewide basis, of projects  
23 proposed pursuant to this act. Prior to allocation of any funds pursuant to  
24 this act, the governor shall review the cost-benefit findings performed on  
25 each project.

26 (e) The director of the budget and the director of the legislative  
27 research department shall consult periodically and review the balance  
28 credited to and the estimated receipts to be credited to the state economic  
29 development initiatives fund during the fiscal year. During any period  
30 when the legislature is not in session, upon a finding by the director of the  
31 budget in consultation with the director of the legislative research  
32 department that the total of the unencumbered balance and estimated  
33 receipts to be credited to the state economic development initiatives fund  
34 during a fiscal year are insufficient to fund the budgeted expenditures and  
35 transfers from the state economic development initiatives fund for the  
36 fiscal year in accordance with the provisions of appropriation acts, the  
37 director of the budget shall make a certification of such finding to the  
38 governor. Upon approval by the governor, the director of accounts and  
39 reports shall transfer the amount of moneys from the Kansas economic  
40 opportunity initiatives fund to the state economic development initiatives  
41 fund that is required, in accordance with a certification by the director of  
42 the budget under this subsection, to fund the budgeted expenditures and  
43 transfers from the state economic development initiatives fund for the

1 fiscal year in accordance with the provisions of appropriation acts, as  
2 specified by the director of the budget pursuant to such certification.

3 (f) On or before the 10<sup>th</sup> day of each month, the director of accounts  
4 and reports shall transfer from the state general fund to the state economic  
5 development initiatives fund interest earnings based on:

6 (1) The average daily balance of moneys in the Kansas economic  
7 opportunity initiatives fund for the preceding month; and

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

10 (g) The secretary of commerce shall review annually the propriety of  
11 projects funded under this section and report the findings in writing to the  
12 governor, the ~~new economy~~ committee on *commerce, labor and economic*  
13 *development* of the house of representatives; *and* the senate commerce  
14 committee ~~and the joint committee on economic development~~. The report  
15 to the ~~new economy~~ *commerce, labor and economic development*  
16 committee of the house of representatives; *and* the commerce committee  
17 of the senate ~~and the joint committee on economic development~~ under this  
18 subsection shall be made either: (1) By publishing such report on the  
19 internet and by notifying each member of the committees that the report is  
20 available and providing, as part of such notice, the uniform resource  
21 locator (URL) at which such report is available; or (2) by submitting  
22 copies of such report on CD-ROM or other electronically readable media  
23 to such committees.

24 Sec. ~~24~~**23**. K.S.A. 2012 Supp. 74-50,216 is hereby amended to read  
25 as follows: 74-50,216. The secretary shall transmit annually to the  
26 governor, the standing committees on taxation and assessment and  
27 commerce of the senate, the standing committees on taxation and  
28 *commerce, labor and economic development* ~~and tourism~~ of the house of  
29 representatives ~~and the joint committee on economic development~~, or any  
30 successor committee, a report, based on information received from each  
31 qualified company receiving benefits under this act, describing the  
32 following:

33 (a) The names of the qualified companies;

34 (b) the types of qualified companies utilizing the act;

35 (c) the location of such companies and the location of such  
36 companies' business operations in Kansas;

37 (d) the number of new employees hired;

38 (e) the wages paid for such new employees;

39 (f) the annual amount of benefits provided under this act;

40 (g) the estimated net state fiscal impact, including the direct and  
41 indirect new state taxes derived from the new employees hired; and

42 (h) an estimate of the multiplier effect on the Kansas economy of the  
43 benefits received under this act.



1       Sec. ~~25~~**24**. K.S.A. 2012 Supp. 74-8004 is hereby amended to read  
2 as follows: 74-8004. (a) In order to achieve its purpose as provided in this  
3 act, the secretary of commerce shall:

4       (1) Serve in an advisory capacity to the governor, the standing  
5 committee on commerce of the senate; *and* the standing committee on  
6 *commerce, labor and* economic development of the house of  
7 representatives ~~and the joint committee on economic development~~.

8       (2) Assume central responsibility to develop, with the guidance of  
9 both the private and public sectors, all facets of a comprehensive long term  
10 economic development strategy.

11       (3) Coordinate the strategy development with all other state and local  
12 agencies and offices and state educational institutions which do research  
13 work, develop materials and programs, gather statistics, or which perform  
14 functions related to economic development; and such state and local  
15 agencies and offices and state educational institutions shall advise and  
16 cooperate with the secretary of commerce in the planning and  
17 accomplishment of the strategy.

18       (4) Evaluate and analyze the state's economy to guide the direction of  
19 future public and private actions, and report and make recommendations to  
20 the governor, the standing committee on commerce of the senate; *and* the  
21 standing committee on *commerce, labor and* economic development of the  
22 house of representatives ~~and the joint committee on economic~~  
23 ~~development~~ with respect to the state's economy. The report to the  
24 committee on commerce of the senate; *and* the committee on *commerce,*  
25 *labor and* economic development of the house of representatives ~~and the~~  
26 ~~joint committee on economic development~~ under this subsection shall be  
27 made by the secretary of commerce, either: (A) By publishing such report  
28 on the internet and by notifying each member of the committees that the  
29 report is available and providing, as part of such notice, the uniform  
30 resource locator (URL) at which such report is available; or (B) by  
31 submitting copies of such report on CD-ROM or other electronically  
32 readable media to such committees.

33       (5) Oversee and evaluate the state's economic development activities  
34 on an ongoing basis through the establishment of goals, priorities *and*  
35 performance standards and the periodic program audit of those goals,  
36 priorities and performance standards.

37       (6) Oversee the implementation of the state's economic development  
38 plan and monitor updates of that plan.

39       (7) Provide appropriate oversight to ensure the successful  
40 implementation of Kansas Venture Capital, Inc.

41       (8) Oversee the targeting of scarce state resources by size and sector  
42 of economic activity and by geographic location within the state in order  
43 to enhance the state's potential comparative economic advantages.

1 (9) Review and evaluate the annual report of Kansas venture capital,  
2 inc. The secretary of commerce shall transmit recommendations  
3 concerning the Kansas venture capital, inc. activities to the governor and  
4 the legislature no later than September 1 of each year.

5 (10) Evaluate and report on the effectiveness of the activities of the  
6 Kansas bioscience authority as provided in K.S.A. 2012 Supp. 74-99b09,  
7 *and amendments thereto*.

8 (b) The secretary of commerce shall seek advice from the general  
9 public and from professional associations, academic groups and  
10 institutions and individuals with knowledge of and interest in areas of  
11 economic development and planning.

12 (c) All interested state agencies shall cooperate with the secretary of  
13 commerce in providing information and other assistance as may be  
14 requested for the performance of its duties with respect to the state's  
15 economic development plan.

16 Sec. ~~26~~**{25}**. K.S.A. 2012 Supp. 74-8135 is hereby amended to read  
17 as follows: 74-8135. (a) The designation of a business as a qualified  
18 Kansas business shall be made by the secretary, and such designation must  
19 be renewed annually. A business shall be so designated if the secretary  
20 determines, based upon the application submitted by the business and any  
21 additional investigation the staff of the department shall make, that the  
22 following criteria have been or shall be satisfied:

23 (1) The business has a reasonable chance of success;

24 (2) the business has the reasonable potential to create measurable  
25 employment within the state;

26 (3) the business has an innovative and proprietary technology,  
27 product and service;

28 (4) the existing owners of the business and other founders have made  
29 or are committed to make a substantial financial and time commitment to  
30 the business;

31 (5) the securities to be issued and purchased are qualified securities;  
32 and

33 (6) binding commitments have been made by the business to the  
34 department for adequate reporting of financial data, including a  
35 requirement for an annual report, or, if required by the secretary, an annual  
36 audit of the financial and operational records of the business, the right of  
37 access to the financial records of the business and the right of the  
38 department to record and publish normal and customary data and  
39 information related to the issuance of tax credits that are not otherwise  
40 determined to be trade or business secrets.

41 (b) In addition to reports by the businesses to the department, the  
42 secretary will also provide an annual report, on or before February 1, to the  
43 governor, to the senate committee on commerce; *and* the house committee

1 on *commerce, labor and economic development and tourism* and the joint  
2 ~~committee on economic development~~ and any successor committees  
3 thereto, on the marketing and use of the angel investor tax credits. This  
4 report will include the following: The amount of tax credits used in the  
5 previous fiscal year including what percentage was claimed by individuals  
6 and what percentage was claimed by investment firms; the types of  
7 businesses that benefited from the tax credits; and any aggregate job  
8 creation or capital investment in Kansas that resulted from the use of the  
9 tax credits for a period of five years beginning from the date on which the  
10 tax credits were awarded. In addition, the annual report will provide  
11 information regarding what businesses which derived benefit from the tax  
12 credits remained in Kansas and what businesses ceased business, what  
13 businesses were purchased and what businesses may have moved out-of-  
14 state and why.

15 Sec. ~~27~~**{26}**. K.S.A. 2012 Supp. 74-8136 is hereby amended to read  
16 as follows: 74-8136. (a) Tax credits for qualified Kansas businesses are a  
17 limited resource of the state for which the secretary is designated as the  
18 administrator. The purpose of such tax credits is to facilitate the  
19 availability of equity investment in businesses in the early stages of  
20 commercial development and to assist in the creation and expansion of  
21 Kansas businesses which are job and wealth creating enterprises. To  
22 achieve this purpose and to optimize the use of the limited resources of  
23 the state, the secretary is authorized to issue tax credits to qualified investors  
24 in qualified Kansas businesses. Such tax credits shall be awarded to those  
25 qualified Kansas businesses which, as determined by the secretary, are  
26 most likely to provide the greatest economic benefit to the state. The  
27 secretary may issue whole or partial tax credits based on an assessment of  
28 the qualified businesses. The secretary may consider numerous factors in  
29 such assessment, including, but not limited to, the quality and experience  
30 of the management team, the size of the estimated market opportunity, the  
31 risk from current or future competition, the ability to defend intellectual  
32 property, the quality and utility of the business model and the quality and  
33 reasonableness of financial projections for the business.

34 (b) Each qualified Kansas business for which tax credits have been  
35 issued pursuant to this act shall report to the department on an annual  
36 basis, the following: (1) The name, address and taxpayer identification  
37 number of each angel investor who has made cash investment in the  
38 qualified securities of a qualified Kansas business and has received tax  
39 credits for this investment during the preceding year and all other  
40 preceding years; (2) the amounts of these cash investments by each angel  
41 investor and a description of the qualified securities issued in  
42 consideration of such cash investments; (3) the name, address and taxpayer  
43 identification number of each investor to which tax credits issued pursuant

1 to this act have been transferred by the original angel investor; and (4) any  
2 additional information as the secretary may require pursuant to this act.

3 (c) The secretary shall transmit annually to the governor, the standing  
4 committee on commerce of the senate; *and* the standing committee on  
5 *commerce, labor and* economic development of the house of  
6 representatives ~~and the joint committee on economic development~~ a  
7 report, based upon information received from each qualified Kansas  
8 business for which tax credits have been issued during the preceding year,  
9 describing the following: (1) The manner in which the purpose, as  
10 described in this act, has been carried out; (2) the total cash investments  
11 made for the purchase of qualified securities of qualified Kansas  
12 businesses during the preceding year and cumulatively since the inception  
13 of this act; (3) an estimate of jobs created and jobs preserved by cash  
14 investments made in qualified securities of qualified Kansas businesses;  
15 and (4) an estimate of the multiplier effect on the Kansas economy of the  
16 cash investments made pursuant to this act.

17 (d) The secretary shall provide the information specified in  
18 subsection (c) to the department of revenue on an annual basis. The  
19 secretary shall conduct an annual review of the activities undertaken  
20 pursuant to this act to ensure that tax credits issued pursuant to this act are  
21 issued in compliance with the provisions of this act or rules and  
22 regulations promulgated by the department with respect to this act.

23 (e) Any violation of the reporting requirements set forth in this  
24 section shall be grounds for undesignation of a qualified Kansas business  
25 under this section.

26 (f) If the secretary determines that a business is not in substantial  
27 compliance with the requirements of this act to maintain its designation,  
28 the secretary, by written notice, shall inform the officers of the qualified  
29 Kansas business and the business that such business will lose designation  
30 as a qualified Kansas business in 120 days from the date of mailing of the  
31 notice unless such business corrects the deficiencies and is once again in  
32 compliance with the requirements for designation.

33 (g) At the end of the 120-day period, if the qualified Kansas business  
34 is still not in substantial compliance, the secretary shall send a notice of  
35 loss of designation to the business, the secretary of the department of  
36 revenue and to all known investors in the business. Loss of designation of  
37 a qualified Kansas business shall preclude the issuance of any additional  
38 tax credits with respect to this business and the secretary shall not approve  
39 the application of such business as a qualified Kansas business. Upon loss  
40 of the designation as a qualified Kansas business or if a business loses its  
41 designation as a qualified Kansas business under this act by moving its  
42 operations outside Kansas within 10 years after receiving financial  
43 assistance under this act, such business shall repay such financial

1 assistance to the department, in an amount determined by the secretary.  
2 Each qualified Kansas business that loses such designation shall enter into  
3 a repayment agreement with the secretary specifying the terms of such  
4 repayment obligation.

5 (h) Angel investors in a qualified Kansas business shall be entitled to  
6 keep all of the tax credits claimed under this act.

7 (i) The secretary shall adopt rules and regulations in accordance with  
8 the rules and regulations filing act necessary to implement the provisions  
9 of K.S.A. 2012 Supp. 74-8131 through 74-8136, and amendments thereto.

10 Sec. ~~28~~**27**. K.S.A. 2012 Supp. 74-8204 is hereby amended to read  
11 as follows: 74-8204. (a) Kansas venture capital, inc., shall prepare and  
12 publish an annual report of its activities for the information of the  
13 governor, the standing committee on commerce of the senate, the standing  
14 committee on ~~new economy~~ *commerce, labor and economic development*  
15 of the house of representatives ~~and the joint committee on economic~~  
16 ~~development~~, securities commissioner of Kansas, attorney general and the  
17 public which shall be made widely available and shall specifically account  
18 for:

19 (1) The manner in which the purpose as described in this act has been  
20 carried out by Kansas venture capital, inc.;

21 (2) the total investments made annually by Kansas venture capital,  
22 inc., in Kansas businesses;

23 (3) an estimate of jobs created and jobs preserved by investments by  
24 Kansas venture capital, inc., in Kansas businesses;

25 (4) an estimate of the multiplier effect on the Kansas economy of  
26 investments by Kansas venture capital, inc., in Kansas businesses; and

27 (5) an analysis of the targeting of scarce resources by Kansas venture  
28 capital, inc., by size, sector and location to enterprises of particular need  
29 and opportunity.

30 (b) The report to the standing committee on commerce of the senate;  
31 ~~and the standing committee on new economy~~ *commerce, labor and*  
32 *economic development* of the house of representatives ~~and the joint~~  
33 ~~committee on economic development~~ under this section shall be made by  
34 Kansas venture capital, inc., either: (1) By publishing such report on the  
35 internet and by notifying each member of the committees that the report is  
36 available and providing, as part of such notice, the uniform resource  
37 locator (URL) at which such report is available; or (2) by submitting  
38 copies of such report on CD-ROM or other electronically readable media.

39 Sec. ~~29~~**28**. K.S.A. 2012 Supp. 74-8310 is hereby amended to read  
40 as follows: 74-8310. (a) Pursuant to K.S.A. 74-5049, and amendments  
41 thereto, the secretary shall report the following:

42 (1) The number of Kansas venture capital companies;

43 (2) the total tax credit generated;

- 1 (3) the total investments made in Kansas venture capital companies;
- 2 (4) the total investments in Kansas businesses by Kansas venture
- 3 capital companies;
- 4 (5) an estimate of jobs created or preserved under the program; and
- 5 (6) an estimate of the multiplier effect on the Kansas economy of the
- 6 program.

7 (b) Additionally, in the report the secretary shall evaluate the success  
8 of the program in collaboration with the standing committee on commerce  
9 of the senate; *and* the standing committee on *commerce, labor and*  
10 economic development of the house of representatives ~~and the joint~~  
11 ~~committee on economic development~~, and may include specific  
12 recommendations for legislation.

13 Sec. ~~30~~**{29}**. K.S.A. 2012 Supp. 74-8317 is hereby amended to read  
14 as follows: 74-8317. The secretary shall transmit annually to the governor,  
15 the standing committee on commerce of the senate; *and* the standing  
16 committee on *commerce, labor and* economic development of the house of  
17 representatives ~~and the joint committee on economic development~~.

- 18 (a) The annual statement of the fund; and
- 19 (b) a report, based upon information received by the fund manager,  
20 which specifies the following:
  - 21 (1) The manner in which the purpose as described in this act has been  
22 carried out by the fund.
  - 23 (2) The total investments made annually by the fund in Kansas  
24 businesses.
  - 25 (3) An estimate of jobs created and jobs preserved by investments by  
26 the fund in Kansas businesses.
  - 27 (4) An estimate of the multiplier effect on the Kansas economy of  
28 investments by the fund in Kansas businesses.
  - 29 (5) An analysis of the targeting of scarce resources by the fund by  
30 size, sector and location to enterprises of particular need and opportunity.

31 Sec. ~~31~~**{30}**. K.S.A. 2012 Supp. 74-8405 is hereby amended to read  
32 as follows: 74-8405. (a) Pursuant to K.S.A. 74-5049, and amendments  
33 thereto, the secretary of commerce shall report the following:

- 34 (1) The number of local seed capital pools;
- 35 (2) the total tax credit generated;
- 36 (3) the total investments made in Kansas venture capital companies;
- 37 (4) the total investments in Kansas businesses by local seed capital  
38 pools;
- 39 (5) an estimate of jobs created or preserved under the program; and
- 40 (6) an estimate of the multiplier effect on the Kansas economy of the  
41 program.
- 42 (b) Additionally, in the report the secretary shall evaluate the success  
43 of the program in collaboration with the standing committee on commerce

1 of the senate; *and* the standing committee on *commerce, labor and*  
2 *economic development* of the house of representatives ~~and the joint~~  
3 ~~committee on economic development~~, and may include specific  
4 recommendations for legislation.

5 Sec. ~~32~~**{31}**. K.S.A. 2012 Supp. 74-99c07 is hereby amended to read  
6 as follows: 74-99c07. (a) The Kansas center for entrepreneurship shall  
7 transmit annually to the governor, the secretary, the standing committee on  
8 commerce in the senate; *and* the standing committee on *commerce, labor*  
9 *and economic development* in the house of representatives ~~and the joint~~  
10 ~~committee on economic development~~ a report stating what tax credits have  
11 been issued during the preceding year and based on information provided  
12 by the regional or local community seed capital fund or economic  
13 development agency, describing the following: (1) The manner in which  
14 the purpose, as described in this act, has been carried out; (2) the total  
15 grants given to community seed capital funds or economic development  
16 agencies during the preceding year and cumulatively since the inception of  
17 this act; (3) the number of companies and jobs created or preserved by the  
18 grants given under this act and their location; and (4) an estimate of the  
19 multiplier effect on the Kansas economy of the grants made pursuant to  
20 this act.

21 (b) The center shall be subject to an audit by the legislative division  
22 of post audit.

23 Sec. ~~33~~**{32}**. K.S.A. 2012 Supp. 75-7423 is hereby amended to read  
24 as follows: 75-7423. The department of health and environment in  
25 consultation with ~~the joint committee on health policy oversight~~ *standing*  
26 *committee on public health and welfare of the senate and the standing*  
27 *committee on health and human services of the house of representatives*  
28 shall consider as part of the health reform in Kansas various medicaid  
29 reform options including, but not limited to: The experience of other  
30 states, long-term care, waste, fraud and abuse, health opportunity accounts,  
31 tax credits, vouchers and premium assistance, and wellness as provided  
32 through the federal deficit reduction act of 2005, public law 109-171. Such  
33 medicaid reforms should result in improved health outcomes for medicaid  
34 recipients, long-term cost controls and encourage primary and preventive  
35 care which will result in cost savings for the state.

36 Sec. ~~34~~**{33}**. K.S.A. 2012 Supp. 75-7427 is hereby amended to read  
37 as follows: 75-7427. (a) As used in this section:

38 (1) "Attorney general" means the attorney general, employees of the  
39 attorney general or authorized representatives of the attorney general.

40 (2) "Benefit" means the receipt of money, goods, items, facilities,  
41 accommodations or anything of pecuniary value.

42 (3) "Claim" means an electronic, electronic impulse, facsimile,  
43 magnetic, oral, telephonic or written communication that is utilized to

1 identify any goods, service, item, facility or accommodation as  
2 reimbursable to the state medicaid program, or its fiscal agents, the state  
3 mediKan program or the state children's health insurance program or  
4 which states income or expense.

5 (4) "Client" means past or present beneficiaries or recipients of the  
6 state medicaid program, the state mediKan program or the state children's  
7 health insurance program.

8 (5) "Contractor" means any contractor, supplier, vendor or other  
9 person who, through a contract or other arrangement, has received, is to  
10 receive or is receiving public funds or in-kind contributions from the  
11 contracting agency as part of the state medicaid program, the state  
12 mediKan program or the state children's health insurance program, and  
13 shall include any sub-contractor.

14 (6) "Contractor files" means those records of contractors which relate  
15 to the state medicaid program, the state mediKan program or the state  
16 children's health insurance program.

17 (7) "Fiscal agent" means any corporation, firm, individual,  
18 organization, partnership, professional association or other legal entity  
19 which, through a contractual relationship with the state of Kansas receives,  
20 processes and pays claims under the state medicaid program, the state  
21 mediKan program or the state children's health insurance program.

22 (8) "Health care provider" means a health care provider as defined  
23 under K.S.A. 65-4921, and amendments thereto, who has applied to  
24 participate in, who currently participates in, or who has previously  
25 participated in the state medicaid program, the state mediKan program or  
26 the state children's health insurance program.

27 (9) "Department" means the department of health and environment,  
28 or its successor agency.

29 (10) "Managed care program" means a program which provides  
30 coordination, direction and provision of health services to an identified  
31 group of individuals by providers, agencies or organizations.

32 (11) "Medicaid program" means the Kansas program of medical  
33 assistance for which federal or state moneys, or any combination thereof,  
34 are expended, or any successor federal or state, or both, health insurance  
35 program or waiver granted thereunder.

36 (12) "Person" means any agency, association, corporation, firm,  
37 limited liability company, limited liability partnership, natural person,  
38 organization, partnership or other legal entity, the agents, employees,  
39 independent contractors, and subcontractors, thereof, and the legal  
40 successors thereto.

41 (13) "Provider" means a person who has applied to participate in,  
42 who currently participates in, who has previously participated in, who  
43 attempts or has attempted to participate in the state medicaid program, the



1 state mediKan program or the state children's health insurance program, by  
2 providing or claiming to have provided goods, services, items, facilities or  
3 accommodations.

4 (14) "Recipient" means an individual, either real or fictitious, in  
5 whose behalf any person claimed or received any payment or payments  
6 from the state medicaid program, or its fiscal agent, the state mediKan  
7 program or the state children's health insurance program, whether or not  
8 any such individual was eligible for benefits under the state medicaid  
9 program, the state mediKan program or the state children's health  
10 insurance program.

11 (15) "Records" means all written documents and electronic or  
12 magnetic data, including, but not limited to, medical records, x-rays,  
13 professional, financial or business records relating to the treatment or care  
14 of any recipient; goods, services, items, facilities or accommodations  
15 provided to any such recipient; rates paid for such goods, services, items,  
16 facilities or accommodations; and goods, services, items, facilities or  
17 accommodations provided to nonmedicaid recipients to verify rates or  
18 amounts of goods, services, items, facilities or accommodations provided  
19 to medicaid recipients, as well as any records that the state medicaid  
20 program, or its fiscal agents, the state mediKan program or the state  
21 children's health insurance program require providers to maintain.  
22 "Records" shall not include any report or record in any format which is  
23 made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments  
24 thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925,  
25 and amendments thereto.

26 (16) "State children's health insurance program" means the state  
27 children's health insurance program as provided in K.S.A. 38-2001 et seq.,  
28 and amendments thereto.

29 (b) (1) There is hereby established within the department of health  
30 and environment the office of inspector general. All budgeting, purchasing  
31 and related management functions of the office of inspector general shall  
32 be administered under the direction and supervision of the executive  
33 director of the department of health and environment. The purpose of the  
34 office of inspector general is to establish a full-time program of audit,  
35 investigation and performance review to provide increased accountability,  
36 integrity and oversight of the state medicaid program, the state mediKan  
37 program and the state children's health insurance program within the  
38 jurisdiction of the department of health and environment and to assist in  
39 improving agency and program operations and in deterring and identifying  
40 fraud, waste, abuse and illegal acts. The office of inspector general shall be  
41 independent and free from political influence and in performing the duties  
42 of the office under this section shall conduct investigations, audits,  
43 evaluations, inspections and other reviews in accordance with professional

1 standards that relate to the fields of investigation and auditing in  
2 government.

3 (2) (A) The inspector general shall be appointed by the department of  
4 health and environment with the advice and consent of the senate and  
5 subject to confirmation by the senate as provided in K.S.A. 75-4315b, and  
6 amendments thereto. Except as provided in K.S.A. 46-2601, and  
7 amendments thereto, no person appointed to the position of inspector  
8 general shall exercise any power, duty or function of the inspector general  
9 until confirmed by the senate. The inspector general shall be selected  
10 without regard to political affiliation and on the basis of integrity and  
11 capacity for effectively carrying out the duties of the office of inspector  
12 general. The inspector general shall possess demonstrated knowledge,  
13 skills, abilities and experience in conducting audits or investigations and  
14 shall be familiar with the programs subject to oversight by the office of  
15 inspector general.

16 (B) No former or current executive or manager of any program or  
17 agency subject to oversight by the office of inspector general may be  
18 appointed inspector general within two years of that individual's period of  
19 service with such program or agency. The inspector general shall hold at  
20 time of appointment, or shall obtain within one year after appointment,  
21 certification as a certified inspector general from a national organization  
22 that provides training to inspectors general.

23 (C) The term of the person first appointed to the position of inspector  
24 general shall expire on January 15, 2009. Thereafter, a person appointed to  
25 the position of inspector general shall serve for a term which shall expire  
26 on January 15 of each year in which the whole senate is sworn in for a new  
27 term.

28 (D) The inspector general shall be in the classified service and shall  
29 receive such compensation as is determined by law, except that such  
30 compensation may be increased but not diminished during the term of  
31 office of the inspector general. The inspector general may be removed  
32 from office prior to the expiration of the inspector general's term of office  
33 in accordance with the Kansas civil service act. The inspector general shall  
34 exercise independent judgment in carrying out the duties of the office of  
35 inspector general under subsection (b). Appropriations for the office of  
36 inspector general shall be made to the department of health and  
37 environment by separate line item appropriations for the office of inspector  
38 general. The inspector general shall report to the secretary of health and  
39 environment.

40 (E) The inspector general shall have general managerial control over  
41 the office of the inspector general and shall establish the organization  
42 structure of the office as the inspector general deems appropriate to carry  
43 out the responsibilities and functions of the office.

1 (3) Within the limits of appropriations therefor, the inspector general  
2 may hire such employees in the unclassified service as are necessary to  
3 administer the office of the inspector general. Such employees shall serve  
4 at the pleasure of the inspector general. Subject to appropriations, the  
5 inspector general may obtain the services of certified public accountants,  
6 qualified management consultants, professional auditors, or other  
7 professionals necessary to independently perform the functions of the  
8 office.

9 (c) (1) In accordance with the provisions of this section, the duties of  
10 the office of inspector general shall be to oversee, audit, investigate and  
11 make performance reviews of the state medicaid program, the state  
12 mediKan program and the state children's health insurance program, which  
13 programs are within the jurisdiction of the department of health and  
14 environment.

15 (2) In order to carry out the duties of the office, the inspector general  
16 shall conduct independent and ongoing evaluation of the department of  
17 health and environment and of such programs administered by the  
18 department of health and environment, which oversight includes, but is not  
19 limited to, the following:

20 (A) Investigation of fraud, waste, abuse and illegal acts by the  
21 department of health and environment and its agents, employees, vendors,  
22 contractors, consumers, clients and health care providers or other  
23 providers.

24 (B) Audits of the department of health and environment, its  
25 employees, contractors, vendors and health care providers related to  
26 ensuring that appropriate payments are made for services rendered and to  
27 the recovery of overpayments.

28 (C) Investigations of fraud, waste, abuse or illegal acts committed by  
29 clients of the department of health and environment or by consumers of  
30 services administered by the department of health and environment.

31 (D) Monitoring adherence to the terms of the contract between the  
32 department of health and environment and an organization with which the  
33 department has entered into a contract to make claims payments.

34 (3) Upon finding credible evidence of fraud, waste, abuse or illegal  
35 acts, the inspector general shall report its findings to the department of  
36 health and environment and refer the findings to the attorney general.

37 (d) The inspector general shall have access to all pertinent  
38 information, confidential or otherwise, and to all personnel and facilities of  
39 the department of health and environment, their employees, vendors,  
40 contractors and health care providers and any federal, state or local  
41 governmental agency that are necessary to perform the duties of the office  
42 as directly related to such programs administered by the department.  
43 Access to contractor or health care provider files shall be limited to those

1 files necessary to verify the accuracy of the contractor's or health care  
2 provider's invoices or their compliance with the contract provisions or  
3 program requirements. No health care provider shall be compelled under  
4 the provisions of this section to provide individual medical records of  
5 patients who are not clients of the state medicaid program, the state  
6 mediKan program or the state children's health insurance program. State  
7 and local governmental agencies are authorized and directed to provide to  
8 the inspector general requested information, assistance or cooperation.

9 (e) Except as otherwise provided in this section, the inspector general  
10 and all employees and former employees of the office of inspector general  
11 shall be subject to the same duty of confidentiality imposed by law on any  
12 such person or agency with regard to any such information, and shall be  
13 subject to any civil or criminal penalties imposed by law for violations of  
14 such duty of confidentiality. The duty of confidentiality imposed on the  
15 inspector general and all employees and former employees of the office of  
16 inspector general shall be subject to the provisions of subsection (f), and  
17 the inspector general may furnish all such information to the attorney  
18 general, Kansas bureau of investigation or office of the United States  
19 attorney in Kansas pursuant to subsection (f). Upon receipt thereof, the  
20 attorney general, Kansas bureau of investigation or office of the United  
21 States attorney in Kansas and all assistants and all other employees and  
22 former employees of such offices shall be subject to the same duty of  
23 confidentiality with the exceptions that any such information may be  
24 disclosed in criminal or other proceedings which may be instituted and  
25 prosecuted by the attorney general or the United States attorney in Kansas,  
26 and any such information furnished to the attorney general, the Kansas  
27 bureau of investigation or the United States attorney in Kansas under  
28 subsection (f) may be entered into evidence in any such proceedings.

29 (f) All investigations conducted by the inspector general shall be  
30 conducted in a manner that ensures the preservation of evidence for use in  
31 criminal prosecutions or agency administrative actions. If the inspector  
32 general determines that a possible criminal act relating to fraud in the  
33 provision or administration of such programs administered by the  
34 department of health and environment has been committed, the inspector  
35 general shall immediately notify the office of the Kansas attorney general.  
36 If the inspector general determines that a possible criminal act has been  
37 committed within the jurisdiction of the office, the inspector general may  
38 request the special expertise of the Kansas bureau of investigation. The  
39 inspector general may present for prosecution the findings of any criminal  
40 investigation to the office of the attorney general or the office of the  
41 United States attorney in Kansas.

42 (g) To carry out the duties as described in this section, the inspector  
43 general and the inspector general's designees shall have the power to

1 compel by subpoena the attendance and testimony of witnesses and the  
2 production of books, electronic records and papers as directly related to  
3 such programs administered by the department of health and environment.  
4 Access to contractor files shall be limited to those files necessary to verify  
5 the accuracy of the contractor's invoices or its compliance with the  
6 contract provisions. No health care provider shall be compelled to provide  
7 individual medical records of patients who are not clients of the  
8 department.

9 (h) The inspector general shall report all convictions, terminations  
10 and suspensions taken against vendors, contractors and health care  
11 providers to the department of health and environment and to any agency  
12 responsible for licensing or regulating those persons or entities. If the  
13 inspector general determines reasonable suspicion exists that an act  
14 relating to the violation of an agency licensure or regulatory standard has  
15 been committed by a vendor, contractor or health care provider who is  
16 licensed or regulated by an agency, the inspector general shall immediately  
17 notify such agency of the possible violation.

18 (i) The inspector general shall make annual reports, findings and  
19 recommendations regarding the office's investigations into reports of  
20 fraud, waste, abuse and illegal acts relating to any such programs  
21 administered by the director of health care finance to the secretary of  
22 health and environment, the legislative post auditor, the committee on  
23 ways and means of the senate, the committee on appropriations of the  
24 house of representatives, ~~the joint committee on health policy oversight~~  
25 and the governor. These reports shall include, but not be limited to, the  
26 following information:

27 (1) Aggregate provider billing and payment information;

28 (2) the number of audits of such programs administered by the  
29 department of health and environment and the dollar savings, if any,  
30 resulting from those audits;

31 (3) health care provider sanctions, in the aggregate, including  
32 terminations and suspensions; and

33 (4) a detailed summary of the investigations undertaken in the  
34 previous fiscal year, which summaries shall comply with all laws and rules  
35 and regulations regarding maintaining confidentiality in such programs  
36 administered by the department of health and environment.

37 (j) Based upon the inspector general's findings under subsection (c),  
38 the inspector general may make such recommendations to the department  
39 of health and environment or the legislature for changes in law, rules and  
40 regulations, policy or procedures as the inspector general deems  
41 appropriate to carry out the provisions of law or to improve the efficiency  
42 of such programs administered by the department of health and  
43 environment. The inspector general shall not be required to obtain

1 permission or approval from any other official or department prior to  
2 making any such recommendation.

3 (k) (1) The inspector general shall make provision to solicit and  
4 receive reports of fraud, waste, abuse and illegal acts in such programs  
5 administered by the department of health and environment from any  
6 person or persons who shall possess such information. The inspector  
7 general shall not disclose or make public the identity of any person or  
8 persons who provide such reports pursuant to this subsection unless such  
9 person or persons consent in writing to the disclosure of such person's  
10 identity. Disclosure of the identity of any person who makes a report  
11 pursuant to this subsection shall not be ordered as part of any  
12 administrative or judicial proceeding. Any information received by the  
13 inspector general from any person concerning fraud, waste, abuse or  
14 illegal acts in such programs administered by the department of health and  
15 environment shall be confidential and shall not be disclosed or made  
16 public, upon subpoena or otherwise, except such information may be  
17 disclosed if: (A) Release of the information would not result in the  
18 identification of the person who provided the information;; (B) the person  
19 or persons who provided the information to be disclosed consent in writing  
20 prior to its disclosure;; (C) the disclosure is necessary to protect the public  
21 health;; or (D) the information to be disclosed is required in an  
22 administrative proceeding or court proceeding and appropriate provision  
23 has been made to allow disclosure of the information without disclosing to  
24 the public the identity of the person or persons who reported such  
25 information to the inspector general.

26 (2) No person shall:

27 (A) Prohibit any agent, employee, contractor or subcontractor from  
28 reporting any information under subsection (k)(1); or

29 (B) require any such agent, employee, contractor or subcontractor to  
30 give notice to the person prior to making any such report.

31 (3) Subsection (k)(2) shall not be construed as:

32 (A) Prohibiting an employer from requiring that an employee inform  
33 the employer as to legislative or auditing agency requests for information  
34 or the substance of testimony made, or to be made, by the employee to  
35 legislators or the auditing agency, as the case may be, on behalf of the  
36 employer;

37 (B) permitting an employee to leave the employee's assigned work  
38 areas during normal work hours without following applicable rules and  
39 regulations and policies pertaining to leaves, unless the employee is  
40 requested by a legislator or legislative committee to appear before a  
41 legislative committee or by an auditing agency to appear at a meeting with  
42 officials of the auditing agency;

43 (C) authorizing an employee to represent the employee's personal

1 opinions as the opinions of the employer; or

2 (D) prohibiting disciplinary action of an employee who discloses  
3 information which: (i) The employee knows to be false or which the  
4 employee discloses with reckless disregard for its truth or falsity; (ii) the  
5 employee knows to be exempt from required disclosure under the open  
6 records act; or (iii) is confidential or privileged under statute or court rule.

7 (4) Any agent, employee, contractor or subcontractor who alleges that  
8 disciplinary action has been taken against such agent, employee, contractor  
9 or subcontractor in violation of this section may bring an action for any  
10 damages caused by such violation in district court within 90 days after the  
11 occurrence of the alleged violation.

12 (5) Any disciplinary action taken against an employee of a state  
13 agency or firm as such terms are defined under subsection (b) of K.S.A.  
14 75-2973, and amendments thereto, for making a report under subsection  
15 (k)(1) shall be governed by the provisions of K.S.A. 75-2973, and  
16 amendments thereto.

17 (l) The scope, timing and completion of any audit or investigation  
18 conducted by the inspector general shall be within the discretion of the  
19 inspector general. Any audit conducted by the inspector general's office  
20 shall adhere and comply with all provisions of generally accepted  
21 governmental auditing standards promulgated by the United States  
22 government accountability office.

23 (m) Nothing in this section shall limit investigations by any state  
24 department or agency that may otherwise be required by law or that may  
25 be necessary in carrying out the duties and functions of such agency.

26 (n) No contractor who has been convicted of fraud, waste, abuse or  
27 illegal acts or whose actions have caused the state of Kansas to pay fines  
28 to or reimburse the federal government more than \$1,000,000 in the  
29 medicaid program shall be eligible for any state medicaid contracts  
30 subsequent to such conviction unless the department of health and  
31 environment finds that the contractor is the sole source for such contracts,  
32 is the least expensive source for the contract, has reimbursed the state of  
33 Kansas for all losses caused by the contractor, or the removal of the  
34 contractor would create a substantial loss of access for medicaid  
35 beneficiaries, in which case the department after a specific finding to this  
36 effect may waive the prohibition of this subsection. Nothing in this section  
37 shall be construed to conflict with federal law, or to require or permit the  
38 use of federal funds where prohibited.

39 (o) The department of health and environment, in accordance with  
40 K.S.A. 75-4319, and amendments thereto, may recess for a closed,  
41 executive meeting under the open meetings act, K.S.A. 75-4317 through  
42 75-4320a, and amendments thereto, to discuss with the inspector general  
43 any information, records or other matters that are involved in any

1 investigation or audit under this section. All information and records of the  
2 inspector general that are obtained or received under any investigation or  
3 audit under this section shall be confidential, except as required or  
4 authorized pursuant to this section.

5 Sec. ~~35~~**{34}**. K.S.A. 2012 Supp. 75-7435 is hereby amended to read  
6 as follows: 75-7435. (a) As used in this section, and amendments thereto,  
7 unless the context requires otherwise:

8 (1) Words and phrases have the meanings respectively ascribed  
9 thereto by K.S.A. 39-923, and amendments thereto.

10 (2) "Skilled nursing care facility" means a licensed nursing facility,  
11 nursing facility for mental health as defined in K.S.A. 39-923, and  
12 amendments thereto, or a hospital long-term care unit licensed by the  
13 department of health and environment, providing skilled nursing care, but  
14 shall not include the Kansas soldiers' home or the Kansas veterans' home.

15 (3) "Licensed bed" means those beds within a skilled nursing care  
16 facility which the facility is licensed to operate.

17 (4) "Agent" means the Kansas department ~~on aging~~ *for aging and*  
18 *disability services*.

19 (5) "Continuing care retirement facility" means a facility holding a  
20 certificate of registration issued by the commissioner of insurance pursuant  
21 to K.S.A. 40-2235, and amendments thereto.

22 (b) (1) Except as otherwise provided in this section and in subsection  
23 (f), there is hereby imposed and the secretary of health and environment  
24 shall assess an annual assessment per licensed bed, hereinafter called a  
25 quality care assessment, on each skilled nursing care facility. The  
26 assessment on all facilities in the aggregate shall be an amount fixed by  
27 rules and regulations of the secretary of health and environment, shall not  
28 exceed \$1,950 annually per licensed bed, shall be imposed as an amount  
29 per licensed bed and shall be imposed uniformly on all skilled nursing care  
30 facilities except that the assessment rate for skilled nursing care facilities  
31 that are part of a continuing care retirement facility, small skilled nursing  
32 care facilities and high medicaid volume skilled nursing care facilities  
33 shall not exceed  $\frac{1}{6}$  of the actual amount assessed all other skilled nursing  
34 care facilities. No rules and regulations of the secretary of health and  
35 environment shall grant any exception to or exemption from the quality  
36 care assessment. The assessment shall be paid quarterly, with one fourth of  
37 the annual amount due by the 30<sup>th</sup> day after the end of the month of each  
38 calendar quarter. The secretary of health and environment is authorized to  
39 establish delayed payment schedules for skilled nursing care facilities  
40 which are unable to make quarterly payments when due under this section  
41 due to financial difficulties, as determined by the secretary of health and  
42 environment. The assessment made for years subsequent to the third year  
43 from the date the provisions of this section are implemented shall not



1 exceed 60% of the first assessment made under this section. As used in this  
2 subsection (b)(1), the terms "small skilled nursing care facilities" and  
3 "high medicaid volume skilled nursing care facilities" shall have the  
4 meanings ascribed thereto by the secretary of health and environment by  
5 rules and regulations, except that the definition of small skilled nursing  
6 care facility shall not be lower than 40 beds.

7 (2) Beds licensed after July 1 each year shall pay a prorated amount  
8 of the applicable annual assessment so that the assessment applies only for  
9 the days such new beds are licensed. The proration shall be calculated by  
10 multiplying the applicable assessment by the percentage of days the beds  
11 are licensed during the year. Any change which reduces the number of  
12 licensed beds in a facility shall not result in a refund being issued to the  
13 skilled nursing care facility.

14 (3) If an entity conducts, operates or maintains more than one  
15 licensed skilled nursing care facility, the entity shall pay the nursing  
16 facility assessment for each facility separately. No skilled nursing care  
17 facility shall create a separate line-item charge for the purpose of passing  
18 through the quality care assessment to residents. No skilled nursing care  
19 facility shall be guaranteed, expressly or otherwise, that any additional  
20 moneys paid to the facility under this section will equal or exceed the  
21 amount of its quality care assessment.

22 (4) The payment of the quality care assessment to the secretary of  
23 health and environment shall be an allowable cost for medicaid  
24 reimbursement purposes. A rate adjustment pursuant to paragraph (5)  
25 subsection (d) shall be made effective on the date of imposition of the  
26 assessment, to reimburse the portion of this cost imposed on medicaid  
27 days.

28 (5) The secretary of health and environment shall seek a waiver from  
29 the United States department of health and human services to allow the  
30 state to impose varying levels of assessments on skilled nursing care  
31 facilities based on specified criteria. It is the intent of the legislature that  
32 the waiver sought by the secretary of health and environment be structured  
33 to minimize the negative fiscal impact on certain classes of skilled nursing  
34 care facilities.

35 (c) Each skilled nursing care facility shall prepare and submit to the  
36 secretary of health and environment any additional information required  
37 and requested by the secretary of health and environment to implement or  
38 administer the provisions of this section. Each skilled nursing care facility  
39 shall prepare and submit quarterly to the secretary of ~~aging for aging and~~  
40 *disability services* the rate the facility charges to private pay residents, and  
41 the secretary shall cause this information to be posted on the web site of  
42 the department ~~on aging for aging and disability services~~.

43 (d) (1) There is hereby created in the state treasury the quality care

1 fund, which shall be administered by the secretary of health and  
2 environment. All moneys received for the assessments imposed pursuant  
3 to subsection (b), including any penalty assessments imposed thereon  
4 pursuant to subsection (e), shall be remitted to the state treasurer in  
5 accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt  
6 of each such remittance, the state treasurer shall deposit the entire amount  
7 in the state treasury to the credit of the quality care fund. All expenditures  
8 from the quality care fund shall be made in accordance with appropriation  
9 acts upon warrants of the director of accounts and reports issued pursuant  
10 to vouchers approved by the secretary of health and environment or the  
11 secretary's agent.

12 (2) All moneys in the quality care fund shall be used to finance  
13 initiatives to maintain or improve the quantity and quality of skilled  
14 nursing care in skilled nursing care facilities in Kansas. No moneys  
15 credited to the quality care fund shall be transferred to or otherwise revert  
16 to the state general fund at any time. Notwithstanding the provisions of  
17 any other law to the contrary, if any moneys credited to the quality care  
18 fund are transferred or otherwise revert to the state general fund, 30 days  
19 following the transfer or reversion the quality care assessment shall  
20 terminate and the secretary of health and environment shall discontinue the  
21 imposition, assessment and collection of the assessment. Upon termination  
22 of the assessment, all collected assessment revenues, including the moneys  
23 inappropriately transferred or reverting to the state general fund, less any  
24 amounts expended by the secretary of health and environment, shall be  
25 returned on a pro rata basis to skilled nursing care facilities that paid the  
26 assessment.

27 (3) Any moneys received by the state of Kansas from the federal  
28 government as a result of federal financial participation in the state  
29 medicaid program that are derived from the quality care assessment shall  
30 be deposited in the quality care fund and used to finance actions to  
31 maintain or increase healthcare in skilled nursing care facilities.

32 (4) Moneys in the fund shall be used exclusively for the following  
33 purposes:

34 (A) To pay administrative expenses incurred by the secretary of  
35 health and environment or the agent in performing the activities authorized  
36 by this section, except that such expenses shall not exceed a total of 1% of  
37 the aggregate assessment funds collected pursuant to subsection (b) for the  
38 prior fiscal year;

39 (B) to increase nursing facility payments to fund covered services to  
40 medicaid beneficiaries within medicare upper payment limits, as may be  
41 negotiated;

42 (C) to reimburse the medicaid share of the quality care assessment as  
43 a pass-through medicaid allowable cost;

1 (D) to restore the medicaid rate reductions implemented January 1,  
2 2010;

3 (E) to restore funding for fiscal year 2010, including rebasing and  
4 inflation to be applied to rates in fiscal year 2011;

5 (F) the remaining amount, if any, shall be expended first to increase  
6 the direct health care costs center limitation up to 150% of the case mix  
7 adjusted median, and then, if there are remaining amounts, for other  
8 quality care enhancement of skilled nursing care facilities as approved by  
9 the quality care improvement panel but shall not be used directly or  
10 indirectly to replace existing state expenditures for payments to skilled  
11 nursing care facilities for providing services pursuant to the state medicaid  
12 program.

13 (5) Any moneys received by a skilled nursing care facility from the  
14 quality care fund shall not be expended by any skilled nursing care facility  
15 to provide for bonuses or profit-sharing for any officer, employee or parent  
16 corporation but may be used to pay to employees who are providing direct  
17 care to a resident of such facility.

18 (6) Adjustment payments may be paid quarterly or within the daily  
19 medicaid rate to reimburse covered medicaid expenditures in the aggregate  
20 within the upper payment limits.

21 (7) On or before the 10<sup>th</sup> day of each month, the director of accounts  
22 and reports shall transfer from the state general fund to the quality care  
23 fund interest earnings based on:

24 (A) The average daily balance of moneys in the quality care fund for  
25 the preceding month; and

26 (B) the net earnings rate of the pooled money investment portfolio for  
27 the preceding month.

28 (e) If a skilled nursing care facility fails to pay the full amount of the  
29 quality care assessment imposed pursuant to subsection (b), when due and  
30 payable, including any extensions of time granted under that subsection,  
31 the secretary of health and environment shall assess a penalty in the  
32 amount of the lesser of \$500 per day or 2% of the quality care assessment  
33 owed for each day the assessment is delinquent. The secretary of health  
34 and environment is authorized to establish delayed payment schedules for  
35 skilled nursing care facilities that are unable to make installment payments  
36 when due under this section because of financial difficulties, as determined  
37 by the secretary of health and environment.

38 (f) (1) The secretary of health and environment shall assess and  
39 collect quality care assessments imposed pursuant to subsection (b),  
40 including any penalty assessments imposed thereon pursuant to subsection  
41 (e), from skilled nursing care facilities on and after July 1, 2010, except  
42 that no assessments or penalties shall be assessed under subsections (a)  
43 through (h) until:

1 (A) An amendment to the state plan for medicaid, which increases the  
2 rates of payments made to skilled nursing care facilities for providing  
3 services pursuant to the federal medicaid program and which is proposed  
4 for approval for purposes of subsections (a) through (h) is approved by the  
5 federal government in which case the initial assessment is due no earlier  
6 than 60 days after state plan approval; and

7 (B) the skilled nursing care facilities have been compensated  
8 retroactively within 60 days after state plan approval at the increased rate  
9 for services provided pursuant to the federal medicaid program for the  
10 period commencing on and after July 1, 2010.

11 (2) The secretary of health and environment shall implement and  
12 administer the provisions of subsections (a) through (h) in a manner  
13 consistent with applicable federal medicaid laws and regulations. The  
14 secretary of health and environment shall seek any necessary approvals by  
15 the federal government that are required for the implementation of  
16 subsections (a) through (h).

17 (3) The provisions of subsections (a) through (h) shall be null and  
18 void and shall have no force and effect if one of the following occur:

19 (A) The medicaid plan amendment, which increases the rates of  
20 payments made to skilled nursing care facilities for providing services  
21 pursuant to the federal medicaid program and which is proposed for  
22 approval for purposes of subsections (a) through (h) is not approved by the  
23 federal centers for medicare and medicaid services;

24 (B) the rates of payments made to skilled nursing care facilities for  
25 providing services pursuant to the federal medicaid program are reduced  
26 below the rates calculated on December 31, 2009, increased by revenues in  
27 the quality care fund and matched by federal financial participation and  
28 rebasing as provided for in K.S.A. 2012 Supp. 75-5958, and amendments  
29 thereto;

30 (C) any funds are utilized to supplant funding for skilled nursing care  
31 facilities as required by subsection (g);

32 (D) any funds are diverted from those purposes set forth in subsection  
33 (d)(4); or

34 (E) upon the governor signing, or allowing to become law without  
35 signature, legislation which by proviso or otherwise directs any funds from  
36 those purposes set forth in subsection (d)(4) or which would propose to  
37 suspend the operation of this section.

38 (g) On and after July 1, 2010, reimbursement rates for skilled nursing  
39 care facilities shall be restored to those in effect during December 2009.  
40 No funds generated by the assessments or federal funds generated  
41 therefrom shall be utilized for such restoration, but such funds may be  
42 used to restore the rate reduction in effect from January 1, 2010, to June  
43 30, 2010.

1 (h) Rates of reimbursement shall not be limited by private pay  
2 charges.

3 (i) If the provisions of subsections (a) through (h) are repealed, expire  
4 or become null and void and have no further force and effect, all moneys  
5 in the quality care fund which were paid under the provisions of  
6 subsections (a) through (h) shall be returned to the skilled nursing care  
7 facilities which paid such moneys on the basis on which such payments  
8 were assessed and paid pursuant to subsections (a) through (h).

9 (j) The department of health and environment may adopt rules and  
10 regulations necessary to implement the provisions of this section.

11 (k) For purposes of administering and selecting the reimbursements  
12 of moneys in the quality care assessment fund, the quality care  
13 improvement panel is hereby established. The panel shall consist of the  
14 following members: Two persons appointed by Kansas homes and services  
15 for the aging; two persons appointed by the Kansas health care association;  
16 one person appointed by Kansas advocates for better care; one person  
17 appointed by the Kansas hospital association; one person appointed by the  
18 governor who is a member of the Kansas adult care executives association;  
19 one person appointed by the governor who is a skilled nursing care facility  
20 resident or the family member of such a resident; one person appointed by  
21 the Kansas foundation for medical care; one person appointed by the  
22 governor from the department ~~on aging~~ *for aging and disability services*;  
23 and one person appointed by the governor from the department of health  
24 and environment. The person appointed by the governor from the  
25 department ~~on aging~~ *for aging and disability services* and the person  
26 appointed by the governor from the department of health and environment  
27 shall be nonvoting members of the panel. The panel shall meet as soon as  
28 possible subsequent to the effective date of this act and shall elect a  
29 chairperson from among the members appointed by the trade organizations  
30 specified in this subsection. The members of the quality care improvement  
31 panel shall serve without compensation or expenses. The quality care  
32 improvement panel shall report annually on or before January 10 to ~~the~~  
33 ~~joint committee on health policy oversight~~ and the legislature concerning  
34 the activities of the panel during the preceding calendar year and any  
35 recommendations which the panel may have concerning the administration  
36 of and expenditures from the quality care assessment fund.

37 (l) The department of health and environment shall certify to the  
38 director of the budget of the department of administration the date upon  
39 which the provisions of this section are implemented. The provisions of  
40 this section shall expire four years subsequent to the implementation of  
41 this section.

42 **Sec. 36{35}. K.S.A. 2012 Supp. 45-229 is hereby amended to read**  
43 **as follows: 45-229. (a) It is the intent of the legislature that exceptions**

1 to disclosure under the open records act shall be created or  
2 maintained only if:

3 (1) The public record is of a sensitive or personal nature  
4 concerning individuals;

5 (2) the public record is necessary for the effective and efficient  
6 administration of a governmental program; or

7 (3) the public record affects confidential information.

8 The maintenance or creation of an exception to disclosure must be  
9 compelled as measured by these criteria. Further, the legislature finds  
10 that the public has a right to have access to public records unless the  
11 criteria in this section for restricting such access to a public record are  
12 met and the criteria are considered during legislative review in  
13 connection with the particular exception to disclosure to be significant  
14 enough to override the strong public policy of open government. To  
15 strengthen the policy of open government, the legislature shall  
16 consider the criteria in this section before enacting an exception to  
17 disclosure.

18 (b) Subject to the provisions of subsection (h), all exceptions to  
19 disclosure in existence on July 1, 2000, shall expire on July 1, 2005,  
20 and any new exception to disclosure or substantial amendment of an  
21 existing exception shall expire on July 1 of the fifth year after  
22 enactment of the new exception or substantial amendment, unless the  
23 legislature acts to continue the exception. A law that enacts a new  
24 exception or substantially amends an existing exception shall state that  
25 the exception expires at the end of five years and that the exception  
26 shall be reviewed by the legislature before the scheduled date.

27 (c) For purposes of this section, an exception is substantially  
28 amended if the amendment expands the scope of the exception to  
29 include more records or information. An exception is not substantially  
30 amended if the amendment narrows the scope of the exception.

31 (d) This section is not intended to repeal an exception that has  
32 been amended following legislative review before the scheduled repeal  
33 of the exception if the exception is not substantially amended as a  
34 result of the review.

35 (e) In the year before the expiration of an exception, the revisor of  
36 statutes shall certify to the president of the senate and the speaker of  
37 the house of representatives, by July 15, the language and statutory  
38 citation of each exception which will expire in the following year  
39 which meets the criteria of an exception as defined in this section. Any  
40 exception that is not identified and certified to the president of the  
41 senate and the speaker of the house of representatives is not subject to  
42 legislative review and shall not expire. If the revisor of statutes fails to  
43 certify an exception that the revisor subsequently determines should

1 have been certified, the revisor shall include the exception in the  
2 following year's certification after that determination.

3 (f) "Exception" means any provision of law which creates an  
4 exception to disclosure or limits disclosure under the open records act  
5 pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to  
6 any other provision of law.

7 (g) A provision of law which creates or amends an exception to  
8 disclosure under the open records law shall not be subject to review  
9 and expiration under this act if such provision:

10 (1) Is required by federal law;

11 (2) applies solely to the legislature or to the state court system.

12 (h) (1) The legislature shall review the exception before its  
13 scheduled expiration and consider as part of the review process the  
14 following:

15 (A) What specific records are affected by the exception;

16 (B) whom does the exception uniquely affect, as opposed to the  
17 general public;

18 (C) what is the identifiable public purpose or goal of the  
19 exception;

20 (D) whether the information contained in the records may be  
21 obtained readily by alternative means and how it may be obtained;

22 (2) an exception may be created or maintained only if it serves an  
23 identifiable public purpose and may be no broader than is necessary  
24 to meet the public purpose it serves. An identifiable public purpose is  
25 served if the legislature finds that the purpose is sufficiently  
26 compelling to override the strong public policy of open government  
27 and cannot be accomplished without the exception and if the  
28 exception:

29 (A) Allows the effective and efficient administration of a  
30 governmental program, which administration would be significantly  
31 impaired without the exception;

32 (B) protects information of a sensitive personal nature concerning  
33 individuals, the release of which information would be defamatory to  
34 such individuals or cause unwarranted damage to the good name or  
35 reputation of such individuals or would jeopardize the safety of such  
36 individuals. Only information that would identify the individuals may  
37 be excepted under this paragraph; or

38 (C) protects information of a confidential nature concerning  
39 entities, including, but not limited to, a formula, pattern, device,  
40 combination of devices, or compilation of information which is used to  
41 protect or further a business advantage over those who do not know or  
42 use it, the disclosure of which information would injure the affected  
43 entity in the marketplace.

1       **(3) Records made before the date of the expiration of an**  
2 **exception shall be subject to disclosure as otherwise provided by law.**  
3 **In deciding whether the records shall be made public, the legislature**  
4 **shall consider whether the damage or loss to persons or entities**  
5 **uniquely affected by the exception of the type specified in paragraph**  
6 **(2)(B) or (2)(C) of this subsection (h) would occur if the records were**  
7 **made public.**

8       **(i) Exceptions contained in the following statutes as continued in**  
9 **existence in section 2 of chapter 126 of the 2005 Session Laws of**  
10 **Kansas and exceptions contained in the following statutes as certified**  
11 **by the revisor of statutes to the president of the senate and the speaker**  
12 **of the house of representatives pursuant to subsection (e) of this**  
13 **section during 2009 are hereby continued in existence until July 1,**  
14 **2015, at which time such exceptions shall expire: 1-401, 2-1202, 5-512,**  
15 **9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-**  
16 **1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2036, 17-2227,**  
17 **17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-**  
18 **4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165,**  
19 **31-405, 34-251, 38-1664, 38-2212, 39-709b, 39-719e, 39-934, 39-1434,**  
20 **39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409,**  
21 **40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-**  
22 **3421, 40-3613, 40-3805, 40-4205, 40-5301, 44-510j, 44-550b, 44-594, 44-**  
23 **635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1) through (43),**  
24 **(a)(45) and (a)(46) of 45-221, 46-256, 46-259, ~~46-220f~~, 47-839, 47-844,**  
25 **47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135,**  
26 **59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 60-3351, 65-102b, 65-**  
27 **118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-**  
28 **1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-**  
29 **436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627,**  
30 **65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-**  
31 **3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-**  
32 **5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804,**  
33 **66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-**  
34 **972a, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903,**  
35 **73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-**  
36 **7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 74-99d05,**  
37 **75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133,**  
38 **75-5266, 75-53,105, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493,**  
39 **76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-**  
40 **3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.**

41       **(j) Exceptions contained in the following statutes as continued in**  
42 **existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas**  
43 **and exceptions contained in the following statutes as certified by the**



1 revisor of statutes to the president of the senate and the speaker of the  
2 house of representatives pursuant to subsection (e) of this section  
3 during 2010, are hereby continued in existence until July 1, 2016, at  
4 which time such exceptions shall expire: 1-501, 9-1303, 12-4516a, 12-  
5 5358, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-2326, 39-970, 44-  
6 1132, 60-3333, 65-525, 65-5117, 65-6016, 65-6017, 65-6154, 71-218, 74-  
7 7508, 75-457, 75-712c, 75-723 and 75-7c06.

8 (k) Exceptions contained in the following statutes as certified by  
9 the revisor of statutes to the president of the senate and the speaker of  
10 the house of representatives pursuant to subsection (e) during 2006,  
11 2007 and 2008 are hereby continued in existence until July 1, 2014, at  
12 which time such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324,  
13 8-1325, 12-17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209, 40-  
14 5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44),  
15 (45), (46) and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-3239,  
16 66-1233, 74-50,184, 74-8134, 74-99b06 and 82a-2210.

17 (l) Exceptions contained in the following statutes as certified by  
18 the revisor of statutes to the president of the senate and the speaker of  
19 the house of representatives pursuant to subsection (e) during 2011 are  
20 hereby continued in existence until July 1, 2017, at which time such  
21 exceptions shall expire: 12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-  
22 8752, 74-8772 and 75-7427.

23 Sec. ~~37~~{36}. K.S.A. 2012 Supp. 75-2264 is hereby amended to  
24 read as follows: 75-2264. ~~(a)~~—The Kansas state historical society and  
25 the department of administration shall develop plans to place a mural  
26 in the capitol honoring the 1<sup>st</sup> Kansas (Colored) Voluntary Infantry  
27 regiment. Such plans shall be developed in consultation with the joint  
28 committee on arts and cultural resources.

29 ~~(b)~~—On or before January 1, 2002, the plans developed pursuant to  
30 subsection ~~(a)~~ shall be submitted to the joint committee on arts and  
31 cultural resources.

32 Sec. ~~38~~{37}. K.S.A. 2012 Supp. 75-2268 is hereby amended to  
33 read as follows: 75-2268. (a) The capitol preservation committee shall  
34 develop plans to place a mural in the capitol commemorating the  
35 United States supreme court decision entered May 17, 1954, in the  
36 case of Brown v. Board of Education (347 U.S. 483, 74 S.Ct. 686, 98  
37 L.Ed. 873). Such plans shall be developed in consultation with the joint  
38 committee on arts and cultural resources.

39 (b) Except for the costs associated with the preparation and  
40 submission of the plans under subsection (a), no public funds shall be  
41 used to pay the costs of creating and installing the mural developed  
42 under this section.

43 Sec. ~~36~~. ~~39~~{38}. K.S.A. 12-2015, 19-4109, 38-2007, 46-912, 46-

1 1604, 46-2201, 71-212 and 74-4907 and K.S.A. 2012 Supp. 39-7,160, 39-  
2 7,161, 39-7,162, **45-229**, 46-1801, ~~46-2801~~, 46-3001, 46-3501, 46-3701,  
3 65-1,251, 72-5395, 74-4908, 74-4909, 74-4920, 74-4921, 74-4921c, 74-  
4 4937, 74-49,129, 74-49,132, 74-49,133, 74-5001a, 74-5002s, 74-5049, 74-  
5 5097, 74-50,123, 74-50,151, 74-50,216, 74-8004, 74-8135, 74-8136, 74-  
6 8204, 74-8310, 74-8317, 74-8405, 74-99c07, **75-2264**, **75-2268**, 75-7423,  
7 75-7425, 75-7427 and 75-7435 are hereby repealed.

8 Sec. ~~37~~. **40{39}**. This act shall take effect and be in force from and  
9 after its publication in the ~~Kansas register~~**statute book**.