

SENATE BILL No. 335

AN ACT concerning financial institutions; relating to banks and banking; including savings and loan associations and savings banks in the state banking code; repealing the savings and loan code; updating the Kansas money transmitter act; amending K.S.A. 2017 Supp. 9-512, 9-513, 9-701, 9-808, 9-809, 9-901a, 9-902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-910, 9-911, 9-912, 9-1101, 39-709, 58-3974, 75-3036 and 75-3170a and repealing the existing sections; also repealing K.S.A. 17-5101, 17-5102, 17-5201, 17-5202, 17-5203, 17-5204, 17-5205, 17-5206, 17-5207, 17-5208, 17-5209, 17-5210, 17-5211, 17-5212, 17-5213, 17-5214, 17-5215, 17-5216, 17-5217, 17-5218, 17-5219, 17-5220, 17-5221, 17-5225, 17-5225a, 17-5225b, 17-5225c, 17-5226, 17-5227, 17-5228, 17-5229, 17-5230, 17-5301, 17-5302, 17-5303, 17-5304, 17-5305, 17-5306, 17-5307, 17-5308, 17-5309, 17-5310, 17-5311, 17-5312, 17-5313, 17-5314, 17-5315, 17-5316, 17-5317, 17-5318, 17-5319, 17-5320, 17-5321, 17-5322, 17-5323, 17-5324, 17-5325, 17-5326, 17-5327, 17-5328, 17-5329, 17-5401, 17-5402, 17-5403, 17-5404, 17-5405, 17-5406, 17-5407, 17-5408, 17-5409, 17-5410, 17-5412, 17-5413, 17-5414, 17-5415, 17-5416, 17-5417, 17-5418, 17-5419, 17-5420, 17-5421, 17-5422, 17-5423, 17-5424, 17-5425, 17-5426, 17-5427, 17-5428, 17-5429, 17-5430, 17-5501, 17-5501c, 17-5502, 17-5502a, 17-5503, 17-5504, 17-5505, 17-5506, 17-5508, 17-5509, 17-5510, 17-5511, 17-5512, 17-5512a, 17-5513, 17-5514, 17-5515, 17-5516, 17-5517, 17-5519, 17-5520, 17-5521, 17-5522, 17-5523, 17-5524, 17-5525, 17-5526, 17-5527, 17-5528, 17-5529, 17-5530, 17-5531, 17-5532, 17-5533, 17-5534, 17-5535, 17-5536, 17-5537, 17-5538, 17-5539, 17-5540, 17-5541, 17-5542, 17-5543, 17-5544, 17-5545, 17-5546, 17-5547, 17-5548, 17-5549, 17-5550, 17-5551, 17-5552, 17-5553, 17-5554, 17-5555, 17-5556, 17-5557, 17-5558, 17-5559, 17-5560, 17-5561, 17-5562, 17-5563, 17-5564, 17-5565, 17-5566, 17-5567, 17-5568, 17-5569, 17-5570, 17-5571, 17-5572, 17-5601, 17-5602, 17-5603, 17-5604, 17-5605, 17-5606, 17-5607, 17-5609a, 17-5611, 17-5612, 17-5613, 17-5614, 17-5615, 17-5616, 17-5617, 17-5618, 17-5619, 17-5620, 17-5621, 17-5622, 17-5623, 17-5624, 17-5625, 17-5626, 17-5627, 17-5628, 17-5629, 17-5630, 17-5631, 17-5632, 17-5633, 17-5634, 17-5635, 17-5636, 17-5637, 17-5638, 17-5639, 17-5640, 17-5641, 17-5642, 17-5643, 17-5644, 17-5645, 17-5702, 17-5703, 17-5704, 17-5705, 17-5706, 17-5801, 17-5802, 17-5803, 17-5804, 17-5805, 17-5806, 17-5807, 17-5808, 17-5809, 17-5810, 17-5811, 17-5812, 17-5814, 17-5816, 17-5817, 17-5818, 17-5819, 17-5820, 17-5821, 17-5822, 17-5823, 17-5824, 17-5825, 17-5826, 17-5827, 17-5830, 17-5831 and 17-5832 and K.S.A. 2017 Supp. 17-5225d, 17-5610, 17-5701, 17-5828 and 17-5829.

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

New Section 1. (a) Subject to the terms of its articles of incorporation and bylaws, and rules and regulations of the commissioner, a mutual bank may:

(1) Raise funds through deposit, share or other accounts, including demand deposit accounts, hereafter referred to as “accounts”; and

(2) issue passbooks, certificates or other evidence of accounts.

(b) No mutual bank shall permit any overdraft, including an intra-day overdraft, on behalf of an affiliate, or incur any overdraft in its account at a federal reserve bank or federal home loan bank on behalf of an affiliate.

(c) A mutual bank may require no less than a 14-day notice prior to payment of savings accounts, if the articles of incorporation or bylaws of the bank or the rules and regulations of the commissioner so provide.

(d) If a mutual bank does not pay all withdrawals in full, subject to the right of the bank, where applicable, to require notice, the payment of withdrawals from accounts shall be subject to the provisions prescribed by the bank’s articles of incorporation or bylaws or the rules and regulations of the commissioner. Except as authorized in writing by the commissioner, any mutual bank that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

(e) A depositor of a mutual bank shall be a voting member and shall have such ownership interest in the bank as may be provided in the articles of incorporation and bylaws of the bank.

(f) The articles of incorporation and the bylaws of a mutual bank may provide that all borrowers from the bank are members and, if so, shall provide for their rights and privileges.

(g) All savings accounts and demand accounts shall have the same priority upon liquidation.

(h) This section shall be a part of and supplemental to the state banking code.

New Sec. 2. (a) No savings and loan association or savings bank may make any investment under this section if the association’s aggregate outstanding investment in a service corporation would exceed 3% of the association’s assets. Not less than ½ of the investment permitted under this section that exceeds 1% of the association’s assets shall be used primarily for community, inner city, and community-development purposes.

(b) This section shall be a part of and supplemental to the state banking code.

New Sec. 3. (a) A savings and loan association shall apply to the commissioner for approval at least 30 days prior to acquiring, establishing or commencing new activity with an existing service corporation and shall not engage in activity with the service corporation without the commissioner's approval. The application shall include:

- (1) A complete description of the saving and loan association's investment in the service corporation;
- (2) the proposed activities of the service corporation;
- (3) the organizational structure and management of the service corporation;
- (4) the relationship between the savings and loan association and the service corporation; and
- (5) any other information that the commissioner deems necessary to describe the proposal.

(b) A service corporation shall:

- (1) Be operated in a manner that demonstrates to the public that it maintains a separate corporate identity from the applicant; and
- (2) not commingle business transactions, accounts and records with a savings and loan association.

(c) In considering an application, the commissioner may:

- (1) Limit a savings and loan association's investment in a service corporation; or
- (2) refuse to permit any activity of a service corporation for supervisory, legal or safety and soundness reasons.

(d) This section shall be a part of and supplemental to the state banking code.

New Sec. 4. (a) A service corporation may engage in any activity that a savings and loan association may conduct directly.

(b) A service corporation shall be subject to the commissioner's supervision as the savings and loan association would be if it had conducted the activity itself.

(c) If a service corporation fails to meet any of the requirements of this section, the savings and loan association shall notify the commissioner. If the service corporation is unable to comply with the requirements of this section within 90 days of its initial failure to meet such requirements, the savings and loan association shall dispose of its investment in the service corporation.

(d) After a savings and loan association has received approval from the commissioner, a service corporation may engage in the following:

(1) Business activities, when such activities are limited to financial documents, financial clients or are generally financially related to:

- (A) Accounting or internal or other auditing;
- (B) advertising, market research and other marketing;
- (C) clerical;
- (D) consulting;
- (E) courier;
- (F) data processing;
- (G) data storage facilities operation and related services;
- (H) personnel benefit program development or administration;
- (I) printing and selling forms that require magnetic ink character recognition (MICR) encoding;
- (J) purchasing and distribution of office supplies, furniture and equipment;
- (K) relocation of personnel;
- (L) research studies and surveys;
- (M) software development and systems integration; and
- (N) remote service unit operation, leasing, ownership or establishment;

(2) credit-related activities:

- (A) Abstracting;
- (B) acquiring and leasing personal property;
- (C) appraising;
- (D) collections;
- (E) credit analysis;
- (F) check or credit card guaranty and verification;
- (G) acting as an escrow agent or trustee, under deeds of trust, in-

cluding executing and delivery of conveyances, reconveyances and transfers of title; and

- (H) loan inspection;
- (3) consumer services activities:
  - (A) Financial advice or consulting;
  - (B) foreign currency exchange;
  - (C) home ownership counseling;
  - (D) income tax return preparation;
  - (E) providing postal services;
  - (F) sales of stored value instruments;
  - (G) welfare benefit distribution;
  - (H) check printing and related services; and
  - (I) remote service unit operation, leasing, ownership or establishment;
- (4) real estate-related service activities:
  - (A) Acquiring real estate for:
    - (i) Prompt development or subdivision;
    - (ii) construction of improvements;
    - (iii) resale or leasing to others for such construction of improvements;
  - or
  - (iv) use as manufactured home sites, in accordance with a prudent program of property development;
  - (B) acquiring improved real estate or manufactured homes to be held for:
    - (i) Rental or resale;
    - (ii) remodeling, renovating or demolishing and rebuilding for resale or rental; or
    - (iii) offices and related facilities of a stockholder of the service corporation;
  - (C) maintaining and managing real estate; and
  - (D) real estate brokerage for property owned by a savings and loan association or savings bank that owns capital stock of the service corporation or in which the service corporation otherwise invests;
- (5) securities, liquidity management and coin purchase activities:
  - (A) Execution of transactions in securities on an agency or riskless principal basis solely upon the order and for the account of customers or the provision of investment advice. The service corporation must register with the securities and exchange commission and office of the securities commissioner, as required by applicable state and federal law and rules and regulations;
  - (B) liquidity management;
  - (C) issuing notes, bonds, debentures or other obligations of securities; and
  - (D) purchase or sale of coins issued by the United States treasury;
- (6) investments in:
  - (A) Tax-exempt bonds used to finance residential real property for family units;
  - (B) tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies;
  - (C) small business investment companies and new market venture capital companies licensed by the United States small business administration;
  - (D) rural business investment companies licensed by the U.S. department of agriculture; and
  - (E) savings accounts of an investing savings and loan association;
- (7) community and economic development or public welfare investment activities that are permissible under federal law;
- (8) establishing or acquiring a corporation that is recognized by the internal revenue service as organized for charitable purposes under 26 U.S.C. § 501(c)(3) of the internal revenue code and making a reasonable contribution to capitalize it, provided that the corporation engages exclusively in activities designed to promote the well-being of communities in which the owners of the service corporation operate;
- (9) acting as an agent for or engaging in activities conducted on behalf of a customer, other than on an as principal basis; and
- (10) any activity reasonably incident to those listed in this subsection if the service corporation engages in those activities.

(e) This section shall be a part of and supplemental to the state banking code.

New Sec. 5. As used in sections 2 through 5, and amendments thereto:

(a) “Invest” means any investment in the capital stock, obligations or other securities, and any advance of funds to a service corporation, including the purchase of stock, the making of a loan or other such advance of funds. “Invest” does not include a payment for rent earned, goods sold and delivered or services rendered prior to the making of such payment.

(b) “Savings and loan service corporation” or “service corporation” means a corporation or limited liability company organized under the laws of Kansas. The entirety of the capital stock of a savings and loan service corporation shall be available for purchase only by Kansas-chartered savings and loan associations, Kansas chartered savings banks and federally chartered savings and loan associations with home offices in Kansas. Kansas-chartered and federally chartered savings and loan associations and Kansas-chartered and federally chartered savings banks investing in a savings and loan service corporation shall designate the savings and loan service corporation as a service corporation.

(c) This section shall be a part of and supplemental to the state banking code.

New Sec. 6. (a) For any deposit account, loan account or other banking relationship hereinafter referred to as “account,” that is opened by one or more persons acting or purporting to act for or on behalf of an entity with any financial institution transacting business in this state, such person may provide the financial institution with a certificate to provide evidence of the existence of the entity and the authority of the person to act for or on behalf of the entity with respect to the account.

(b) The certificate of existence and authority shall be an affidavit executed by such person and shall include the following, as applicable:

- (1) The name and mailing address of the entity;
- (2) the type of entity and the state, country or other governmental authority, under which laws, the entity was formed;
- (3) the organization date of the entity;
- (4) the name, mailing address and office or other position held by the person executing the certificate; and
- (5) a statement that the board of directors, managers, members, general partners or other governing body of the entity opening the account has duly taken all action legally required to open the account in the name of the entity and the name, office or other position of the person who has been duly authorized to engage in transactions with respect to the account, including any limitation that may exist upon the authority of such person to bind the entity and any other matters concerning the manner in which such person may deal with the account.

(c) If a financial institution accepts a certificate of existence and authority pursuant to this section, the financial institution may open and administer the account in accordance with the information set forth therein and shall not be liable for so doing, even if any such information is inaccurate, unless the financial institution has actual knowledge of such inaccuracy or knowledge sufficient to cause a reasonably prudent person to doubt the accuracy of such information.

(d) Nothing in this section shall be construed to prohibit a financial institution from requesting additional information or requiring other agreements in order to establish an account for an entity, including, without limitation, a resolution, certificate of good standing, request for a taxpayer identification number, entity agreements or documents or parts thereof evidencing the existence of the entity or the authority of the person executing the certificate, and an indemnification that is acceptable to the financial institution.

(e) As used in this section:

(1) “Entity” means any government or governmental subdivision or agency, any domestic or foreign corporation, limited liability company, general partnership, limited liability partnership, joint venture, cooperative, association or other legal entity, whether operated for profit or not-for-profit; and

(2) “financial institution” means any federal- or state- chartered commercial bank, savings and loan association or savings bank.

(f) This section shall be a part of and supplemental to the state banking code.

Sec. 7. K.S.A. 2017 Supp. 9-701 is hereby amended to read as follows: 9-701. Unless otherwise clearly indicated by the context, the following words when used in the state banking code, for the purposes of the state banking code, shall have the meanings respectively ascribed to them in this section:

(a) “Bank or state bank” means a ~~state~~ bank, *savings and loan association or savings bank* incorporated under the laws of Kansas.

(b) “Business of banking” means receiving or accepting money on deposit, and may include the performance of related activities that are not exclusive to banks, including paying drafts or checks, lending money or any other activity authorized by applicable law. “Business of banking” shall not include any activity conducted by a student bank.

(c) “Trust company” means a trust company incorporated under the laws of Kansas and which does not accept deposits.

(d) “Commissioner” means the Kansas state bank commissioner.

(e) “Executive officer” means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank or trust company, whether or not the officer has an official title, the title designates the officer as an assistant or the officer is serving without salary or other compensation. The chairperson of the board, the president, every vice president, the cashier, the secretary and the treasurer of a company or bank are considered executive officers.

(1) A bank may, by resolution of the board of directors or by the bylaws of the bank or trust company, exempt an officer from participation, other than in the capacity of a director, in major policymaking functions of the bank or trust company if the officer does not actually participate therein.

(2) The commissioner may make the determination that a person is an executive officer if the commissioner determines that the criteria are met despite the existence of a resolution allowed pursuant to this subsection.

(f) “Demand deposit” means a deposit that: (1) (A) Is payable on demand;

(B) is issued with an original maturity or required notice period of less than seven days;

(C) represents funds for which the depository institution does not reserve the right to require at least seven days’ written notice of an intended withdrawal; or

(D) represents funds for which the depository institution does reserve the right to require at least seven days’ written notice of an intended withdrawal; and

(2) is not also a negotiable order of withdraw account.

(3) “Demand deposit” does not include “time deposits” or “savings deposits” as defined in this section.

(g) “Time deposit,” also known as a certificate of deposit, means a deposit that the depositor does not have a right and is not permitted to make withdrawals from within six days after the date of deposit unless the deposit is subject to an early withdrawal penalty of at least seven days’ simple interest on amounts withdrawn within the first six days after deposit. A time deposit from which partial early withdrawals are permitted must impose additional early withdrawal penalties for at least seven days’ simple interest on amounts withdrawn within six days after each partial withdrawal. If such additional early withdrawal penalties are not contractually imposed, the account ceases to be a time deposit, but may become a savings deposit if the account meets the requirements for a savings deposit.

(h) “Savings deposit” means a deposit or account with respect to which the depositor is not required by the deposit contract, but may at any time, be required by the depository institution to give written notice of an intended withdrawal not less than seven days before such withdrawal is made and that is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(i) “Public moneys” means all moneys coming into the custody of the United States government or any board, commission or agency thereof,

and also shall mean all moneys coming into the custody of any officer of any municipal or quasi-municipal or public corporation, the state or any political subdivision thereof, pursuant to any provision of law authorizing any such official to collect or receive the same.

(j) “Municipal corporation” means any city incorporated under the laws of Kansas.

(k) “Quasi-municipal corporation” means any county, township, school district, drainage district, rural water district or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(l) “Certificate of authority” means a certificate signed and sealed by the commissioner evidencing the authority of a bank or trust company to transact a general banking or trust business as provided by law.

(m) “Trust business” means engaging in, or holding out to the public as willing to engage in, the business of acting as a fiduciary for hire, except that no accountant, attorney, credit union, insurance broker, insurance company, investment adviser, real estate broker or sales agent, savings and loan association, savings bank, securities broker or dealer, real estate title insurance company or real estate escrow company shall be deemed to be engaged in a trust company business with respect to fiduciary services customarily performed by those persons or entities for compensation as a traditional incident to their regular business activities.

(n) “Community and economic development entity” means an entity that makes investments or conducts activities that primarily benefit low-income and moderate-income individuals, low-income and moderate-income areas, or other areas targeted by a governmental entity for redevelopment, or would receive consideration as “qualified investments” under the community reinvestment act pub. L. 95-128, title VIII, 91 stat. 1147, 12 U.S.C. § 2901 et seq., and any state tax credit equity fund established pursuant to K.S.A. 74-8904, and amendments thereto.

(o) “Depository institution” means any state bank, national banking association, state savings and loan or federal savings association, without regard to the state where the institution is chartered or the state in which the institution’s main office is located.

(p) “Student bank” means any nonprofit program offered by a high school accredited by the state board of education, where deposits are received, checks are paid or money is lent for limited in-school purposes.

(q) “*Stock bank*” means a bank that has an ownership structure represented by stock.

(r) “*Mutual bank*” means a bank that does not have an ownership structure represented by stock.

(s) “*Savings and loan association*” or “*savings bank*” means a bank that is required to have qualified thrift investments that equal or exceed 65% of its portfolio assets, and its qualified thrift investments are required to equal or exceed 65% of its assets on a monthly average basis in nine out of every 12 months. For purposes of this subsection, “*portfolio assets*” and “*qualified thrift investments*” have the same meanings as in 12 U.S.C. § 1467a, as amended.

Sec. 8. K.S.A. 2017 Supp. 9-808 is hereby amended to read as follows: 9-808. (a) Any national bank, federal savings association or federal savings bank organized under the laws of the United States and located in this state may become a state bank upon the affirmative vote of not less than  $\frac{2}{3}$  of the institution’s outstanding voting stock or members. Any national bank, federal savings association or federal savings bank desiring to become a state bank shall apply to the commissioner for permission to convert to a state bank and:

(1) Shall submit a transcript of the minutes of the meeting of the institution’s stockholders or members showing approval of the proposed conversion;

(2) the name selected for the bank shall not be the name of any other bank: (A) doing business in the same city or town; or

(B) within a 15-mile radius of the location of the converted institution. The name shall be accepted or rejected by the commissioner, although any bank may request exemption from the commissioner from this paragraph; and

(3) provide any other information required in the application form prescribed by the commissioner.

(b) A federal savings association or federal savings bank operating in a mutual form *and which seeks to become a stock bank* must also convert to a stock form prior to converting to a state bank and shall submit appropriate documentation to the commissioner to show that the appropriate federal regulator has approved such mutual to stock conversion.

(c) Upon receipt of each of the items required by this section the commissioner shall make or cause to be made such investigation as the commissioner deems necessary to determine whether:

(1) All state and federal requirements for a conversion have been satisfied;

(2) the conversion or the financial condition of the bank will not adversely affect the interests of the depositors;

(3) the resulting state bank will have an adequate capital structure in accordance with K.S.A. 9-901a et seq., and amendments thereto; and

(4) the competence, experience or integrity of the proposed management personnel indicates that approving the conversion would be in the interest of the depositors of the bank and in the interest of the public.

(d) If the commissioner determines each of the matters in subsection (c) favorably, the conversion shall be approved, and the commissioner shall issue a certificate of authority. Upon issuance of a certificate of authority, the articles of incorporation, duly executed as required by the Kansas corporate code, shall be filed with the Kansas secretary of state's office.

(e) In any conversion authorized by this section, the resulting state bank by operation of law shall continue all trust functions being exercised by the national bank, federal savings association or federal savings bank and shall be substituted for the national bank, federal savings association or federal savings bank and shall have the right to exercise trust or fiduciary powers created by any instrument designating the national bank, federal savings association or federal savings bank, even though such instruments are not yet effective.

(f) In any conversion authorized by this section, the resulting state bank shall succeed by operation of law without any conveyance or transfer by the act of the national bank, federal savings association or federal savings bank to all the actual or potential assets, real property, tangible personal property, intangible personal property, rights, franchises and interests, including those in a fiduciary capacity of the national bank, federal savings association or federal savings bank and shall be subject to all of the liabilities of the national bank, federal savings association or federal savings bank.

(g) In any conversion authorized by this section the corporate existence of the national bank, federal savings association or federal savings bank shall be continued in the resulting state bank, and the resulting state bank shall be deemed to be the identical corporate entity as the national bank, federal savings association or federal savings bank.

(h) Within a reasonable time after the effective date of the conversion, the resulting *state* bank shall divest all assets and liabilities that do not conform to state banking laws and rules and regulations. The length of this transition period shall be determined by the commissioner.

Sec. 9. K.S.A. 2017 Supp. 9-809 is hereby amended to read as follows: 9-809. (a) Any state bank may convert to a national bank, *federal savings and loan association or federal savings bank* upon the affirmative vote of not less than  $\frac{2}{3}$  of the bank's outstanding voting stock *or members*.

(b) The state bank shall provide a copy of the application submitted to the comptroller of currency to the commissioner within 10 days after the date the state bank applies for approval to convert to a national banking association, *federal savings and loan association or federal savings bank* from the office of the comptroller of the currency.

(c) The state bank shall provide to the commissioner written notice of approval by the comptroller of currency to convert to a national bank, *federal savings and loan association or federal savings bank* within 10 days of receiving the approval.

(d) Within 15 days following the issuance of a charter certificate to the bank by the comptroller, the bank shall surrender its state certificate of authority or charter and shall certify in writing that notice of the conversion has been given to the Kansas secretary of state's office.

Sec. 10. K.S.A. 2017 Supp. 9-901a is hereby amended to read as fol-

lows: 9-901a. (a) For purposes of this section: (1) “Capital” means: (A) *For a stock bank or trust company*, the total of the aggregate par value of a bank’s or trust company’s outstanding shares of capital stock, its surplus and its undivided profits; and (B) *for a mutual bank*, the total of the funds pledged by its members and its undivided profits;

(2) “equity capital” means the total of common stock, preferred stock, surplus and undivided profits less intangibles; and

(3) “total assets” means the total of all tangible bank assets as reported on the daily balance sheet of the bank.

(b) (1) For *stock* banks organized on or after July 1, 2015, the minimum capital of a *stock* bank at the time of organization shall be the greater of \$3,000,000 or an amount equal to 8% of the proposed bank’s estimated deposits five years after its organization. The capital shall be divided with 60% of the amount as the aggregate par value of outstanding shares of capital stock, 30% as surplus and 10% as undivided profits.

(2) For trust companies organized on or after July 1, 2015, the minimum capital shall at all times be \$500,000. The capital shall be divided with 60% of the amount as the aggregate par value of outstanding shares of capital stock, 30% as surplus and 10% as undivided profits.

(3) *For mutual banks organized on or after July 1, 2018, the founding members of the bank must pledge funds at the time of organization the greater of \$3,000,000 or an amount equal to 8% of the proposed bank’s estimated deposits five years after its organization.*

(4) The state banking board may require that a bank or trust company have capital in excess of the amounts specified in this subsection if the state banking board determines that excess capital is necessary based on the character and qualifications of the proposed board of directors and the nature of the business of the bank or trust company.

(c) The minimum capital of a bank or trust company organized pursuant to K.S.A. 9-801(j), and amendments thereto, shall be determined by the commissioner, provided that the successor bank has obtained deposit insurance from the federal deposit insurance corporation or any successor.

(d) All banks shall maintain a capital ratio of at least 5% of equity capital to total assets at all times.

(e) Any bank that relocates its main office from one city to another pursuant to K.S.A. 2017 Supp. 9-814, and amendments thereto, shall have equity capital equal to the greater of \$3,000,000 or 8% of its estimated deposits five years after the relocation.

(1) The commissioner, in the commissioner’s discretion, may approve a relocation with a smaller equity capital amount if the bank can show that the circumstances surrounding the relocation warrant consideration of a lesser amount and the safety of depositors would not be impacted by requiring a lesser amount.

(2) If the main office relocation is part of an interchange of the main office with a branch location that has been in operation for at least one year, this equity capital requirement shall not apply.

(f) Any national bank, federal savings association or federal savings bank which converts its charter to a state bank pursuant to K.S.A. 9-808, and amendments thereto, shall have a minimum capital ratio of 5% of equity capital to total assets at the time of its conversion. The capital division requirements of subsection (b) shall not apply.

(g) The commissioner may require that a bank or trust company have capital in excess of the amounts specified in subsections (b) through (d) if the commissioner determines that excess capital is necessary based on the character and qualifications of the proposed board of directors and nature of the business of the bank or trust company.

(h) Any bank that fails to meet the minimum capital ratio of 5% of equity capital to total assets required by this section shall notify the commissioner within three business days. Upon notice, the commissioner may require the bank to submit a written plan for restoring capital approved by the commissioner.

Sec. 11. K.S.A. 2017 Supp. 9-902 is hereby amended to read as follows: 9-902. (a) The common and preferred stock of any *stock* bank or trust company hereafter created shall be divided into shares of \$1 each, or any whole number multiple thereof. All subscriptions to such stock

shall be paid in cash and any bank or trust company may change the par value of its shares to conform with this section.

(b) Any *stock* bank or trust company may reduce the number of shares of common stock and replace the shares of common stock with a like amount of shares of preferred stock, as long as the total dollar amount of capital stock is not changed. In lieu of reducing the number of shares of common stock, the *stock* bank may reduce the par value of the common stock and issue preferred stock with a par value that is equal to the amount of the reduction in the par value of the common stock. When the preferred stock is retired, the par value of the common shares shall be restored.

(c) The requirements for a capital reduction pursuant to K.S.A. 9-904, and amendments thereto, and the requirements for new issue of preferred stock pursuant to K.S.A. 9-908, and amendments thereto, shall not apply to the circumstance described in this section.

Sec. 12. K.S.A. 2017 Supp. 9-903 is hereby amended to read as follows: 9-903. (a) The shares of stock of any *stock* bank or trust company shall be deemed personal property and shall be transferred on the books of the bank or trust company in such manner as the bylaws thereof may direct.

(b) No transfer of stock shall be valid against the issuing *stock* bank or trust company so long as the registered owner thereof shall be liable as principal debtor, surety or otherwise to the *stock* bank or trust company on a matured, charged off or forgiven obligation. No dividend, interest or profit shall be paid on such stock so long as the registered owner thereof is indebted to the bank or trust company on a matured, charged off or forgiven obligation. All such dividends or profits shall be retained by the *stock* bank or trust company and applied to the discharge of any such obligations.

(c) No stock shall be transferred on the books of any bank or trust company when the bank or trust company is in a failing condition, or when its capital stock is impaired, except upon approval of the commissioner.

(d) The president or other chief executive officer of a bank or trust company shall report to the commissioner within 10 days of the transfer of shares of stock on the books of the bank or trust company if there is a transfer of:

(1) Shares of stock that results in the direct or indirect ownership by a stockholder or an affiliated group of stockholders of 10% or more of the outstanding stock of the bank or trust company; or

(2) additional shares of stock to stockholders or an affiliated group of stockholders who own 10% or more of the outstanding stock of a bank or trust company.

(e) If there is a transfer of shares of stock that results in the direct or indirect ownership by a stockholder or an affiliate group of stockholders of 25% or more of the outstanding stock of the bank or trust company, a change of control shall be filed pursuant to K.S.A. 9-1719 et seq., and amendments thereto.

Sec. 13. K.S.A. 2017 Supp. 9-904 is hereby amended to read as follows: 9-904. (a) With prior approval of the commissioner, a *stock* bank or trust company may reduce the amount of its capital stock account. No such reduction shall be approved unless the commissioner finds that:

(1) The proposed reduction is necessary to provide greater operational flexibility to an adequately capitalized, well-managed institution;

(2) the proposed reduction does not result in or is not in furtherance of a reduction in the institution's capital to an amount below the amount required by K.S.A. 9-901(a), and amendments thereto;

(3) the proposed reduction is not intended to delay, prevent or be in lieu of capital stock impairment or a stockholder's assessment pursuant to K.S.A. 9-906, and amendments thereto;

(4) the proposed reduction poses no significant risk to the financial stability, safety or soundness of the institution;

(5) the bank's or trust company's surplus account will be increased in an amount equal to the amount of the proposed reduction in the capital stock account, unless a waiver is granted by the commissioner; and

(6) a resolution approving the reduction has been adopted by the

stockholders representing  $\frac{2}{3}$  of the voting stock of the bank or trust company.

(b) Upon completion of the reduction, the *stock* bank or trust company shall file with the commissioner a list of its stockholders and the amount of stock held by each.

(c) Whenever the capital stock of any *stock* bank or trust company shall be reduced as herein provided, every stockholder, owner or holder of any stock certificate shall surrender the same for cancellation and shall be entitled to receive a new certificate for such person's proportion of the new stock. No dividends shall be paid to any such stockholder until the old certificate is surrendered.

Sec. 14. K.S.A. 2017 Supp. 9-905 is hereby amended to read as follows: 9-905. The capital stock of any *stock* bank or trust company may be increased. The president and cashier shall forward a verified statement to the commissioner showing the amount of the increase, paid in full, the names and addresses of the subscribers and the amount subscribed by each.

Sec. 15. K.S.A. 2017 Supp. 9-906 is hereby amended to read as follows: 9-906. (a) Whenever it shall appear that the capital stock of any *stock* bank or trust company is impaired, the commissioner shall notify the *stock* bank or trust company to restore the capital stock within 90 days of receipt of such notice.

(b) For purposes of this section, "impairment" means that charges or losses to the bank or trust company's capital accounts have been sufficient to eliminate all of the bank or trust company's allowance for loan and lease loss, undivided profits, surplus fund and any other capital reserves and has brought the book amount of the capital stock below the par value of the capital stock.

(c) Within 15 days of receipt of the impairment notice from the commissioner, the board of directors of the bank or trust company shall levy an assessment on the common stockholders sufficient to restore the capital stock.

(d) A bank or trust company may reduce its capital stock to the extent of the impairment, if such reduction is conducted pursuant to the requirements of K.S.A. 9-904, and amendments thereto.

Sec. 16. K.S.A. 2017 Supp. 9-907 is hereby amended to read as follows: 9-907. (a) Whenever any stockholder of a *stock* bank or trust company or an assignee of such stockholder, fails to pay any assessment as required by K.S.A. 9-906, and amendments thereto, the directors of the bank or trust company may sell the stock of such delinquent stockholder, or so much of the stock as necessary, to satisfy the assessment and any related incidental expenses within 120 days of the bank or trust company's receipt of impairment notice.

(b) The sale of stock of a delinquent stockholder may be either public or private. The bank or trust company may sell the stock to any person paying the highest price, however, the price shall not be less than the amount due upon the stock, including any incidental expenses. If the stock is sold at private sale and the price offered by any non-stockholder does not exceed the highest bid of any stockholder, then such stock shall be sold to the stockholder. If the stock is sold at a public sale, then notice of the public sale shall be published on the same day for two consecutive weeks, in a newspaper of general circulation in the city or county where the bank or trust company is located.

(c) Any excess moneys realized from the sale of the stock shall be paid to the delinquent stockholder, unless the stockholder is indebted to the bank or trust company. If the stockholder has debt, then the excess may be retained by the bank or trust company as an offset against the debt.

(d) If no purchaser can be found for the stock at the public or private sale, the stock shall be forfeited to the bank or trust company to be disposed of as the board of directors shall determine within six months from the date of the public or private sale. If the stock cannot be disposed of within six months, the bank or trust company may request permission from the commissioner for additional time to dispose of the stock.

Sec. 17. K.S.A. 2017 Supp. 9-908 is hereby amended to read as follows: 9-908. (a) Upon the affirmative vote of  $\frac{2}{3}$  of the voting shares of the common stock of a *stock* bank or trust company, and with the prior

approval of the commissioner, a *stock* bank or trust company may issue preferred stock of one or more classes. The stockholders shall have a meeting to vote on the issuance of preferred stock. Notice of this meeting shall be given to all stockholders at least five days in advance of the date of the meeting by registered mail.

(b) No preferred stock shall be retired unless the common stock shall be increased in an amount equal to the amount of the preferred stock retired. All preferred stock shall be retired consistent with safety to the depositors.

Sec. 18. K.S.A. 2017 Supp. 9-910 is hereby amended to read as follows: 9-910. No dividends shall be paid from the capital stock account of a *stock* bank or trust company. The current dividends of any *stock* bank or trust company *or of any mutual bank* shall be paid from undivided profits after deducting losses. These losses are determined by using generally accepted accounting principles at the time of making the dividend.

Sec. 19. K.S.A. 2017 Supp. 9-911 is hereby amended to read as follows: 9-911. (a) The directors of any *stock* bank or trust company *or of any mutual bank* may declare cash dividends only from undivided profits. *For a stock bank*, before paying this dividend, the directors shall ensure that the surplus fund equals or exceeds the capital stock account. If the surplus fund is less than the capital stock account, the directors shall transfer 25% of the net profits of the bank or trust company, since the last preceding dividend from undivided profits to the surplus fund, except no additional transfers shall be required once the surplus fund equals the capital stock account.

(b) The directors of any bank or trust company may not declare or pay an asset dividend, other than cash dividends allowed pursuant to subsection (a), without prior approval from the commissioner.

Sec. 20. K.S.A. 2017 Supp. 9-912 is hereby amended to read as follows: 9-912. (a) Any losses sustained by a bank or trust company in excess of its undivided profits may be charged to its surplus fund.

(b) Any *stock* bank or trust company, after receiving approval from the commissioner, may declare a stock dividend from its surplus fund, but no dividend shall reduce the surplus fund to an amount less than 30% of the resulting total capital.

(c) Any bank or trust company may reduce its surplus account with permission of the commissioner.

Sec. 21. K.S.A. 2017 Supp. 9-1101 is hereby amended to read as follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, the following powers:

(1) To receive and to pay interest on deposits. The commissioner, with approval of the state banking board, may by rules and regulations fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;

(2) to buy, sell, discount or negotiate domestic currency, gold, silver, foreign currency, bullion, commercial paper, bills of exchange, notes and bonds. Foreign currency shall not be bought, sold, discounted or negotiated for investment purposes;

(3) to make all types of loans, subject to the loan limitations contained in the state banking code;

(4) (A) to buy and sell:

(i) Bonds, securities or other evidences of indebtedness, including temporary notes, of the United States of America;

(ii) bonds, securities or other evidences of indebtedness, including temporary notes, fully guaranteed, directly or indirectly, by the United States of America; or

(iii) general obligation bonds of any state of the United States of America or any municipality or quasi-municipality thereof.

(B) No bank shall invest in bonds, securities or other evidences of indebtedness *in excess of 15% of capital stock paid in and unimpaired and the unimpaired surplus fund of such bank* if:

(i) The direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its ~~assessed valuation~~ *market value*, excluding therefrom all valuations on intangibles and homestead exemption valuation; or

(ii) any bond, security, or evidence of indebtedness of any such mu-

nicipality or quasi-municipality that has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;

(5) to buy and sell investment securities which are evidences of indebtedness limited to buying and selling without recourse marketable obligations evidencing indebtedness of any state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15, and amendments thereto, or the state armory board in the form of bonds, notes or debentures or both. The total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank, except that this limit shall not apply to obligations of the United States government or any agency thereof;

(6) to buy and sell investment securities which are evidences of indebtedness limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association or corporation. The total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 25% of the capital stock surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank;

(7) to subscribe to, buy, hold and sell stock of:

(A) The federal national mortgage association in accordance with the national housing act;

(B) the federal home loan mortgage corporation in accordance with the federal home loan mortgage corporation act;

(C) the federal agricultural mortgage corporation, provided no bank's investment in such corporation shall exceed 5% of the bank's capital stock, surplus and undivided profits; and

(D) a federal home loan bank. Any bank may also become a member of a federal home loan bank;

(8) to subscribe to, buy and own stock in one or more small business investment companies in Kansas as otherwise authorized by federal law, except that in no event shall any bank acquire shares in any small business investment company if, upon the acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed 5% of the bank's capital and surplus;

(9) to subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, organized pursuant to the provisions of the laws of the United States providing for the information and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or 10% of the capital stock and surplus and undivided profits from such bank, whichever is greater;

(10) to buy, hold and sell any type of investment securities not enumerated in this section with approval of the commissioner and upon such conditions and under such regulations as are prescribed by the state banking board;

(11) to act as escrow agent;

(12) to subscribe to, acquire, hold and dispose of stock of a corporation the purpose of which is to acquire, hold and dispose of loans secured by real estate mortgages, and to acquire, hold and dispose of the debentures and capital notes of such corporation. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits;

(13) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

(14) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation the purpose of which is to acquire, hold and dispose of agricultural loans originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits;

(15) to engage in financial future contracts on United States government and agency securities subject to such rules and regulations as the commissioner may prescribe pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices;

(16) to subscribe to, buy and own stock in a bankers' bank organized under the laws of the United States, this state or any other state, or a one bank holding company which owns or controls such a bankers' bank, except no bank's investment in such stock shall exceed 10% of its capital stock, surplus and undivided profits;

(17) to buy, hold and sell shares of an open-end investment company in a manner consistent with the parameters outlined by the office of the comptroller of the currency in banking circular 220, as such circular was issued on November 21, 1986;

(18) subject to the prior approval of the commissioner and subject to such rules and regulations as are adopted by the commissioner pursuant to K.S.A. 9-1713, and amendments thereto, to promote safe and sound banking practices, a bank may establish a subsidiary which engages in the following securities activities:

(A) Selling or distributing stocks, bonds, debentures, notes, mutual funds and other securities;

(B) issuing and underwriting municipal bonds;

(C) organizing, sponsoring and operating mutual funds; or

(D) acting as a securities broker-dealer;

(19) to subscribe to, buy and own stock in an insurance company incorporated prior to 1910, under the laws of Kansas, with corporate headquarters in this state, which only provides insurance to financial institutions. The investment in such stock shall not exceed 2% of the bank's capital stock, surplus and undivided profits;

(20) to purchase and hold an interest in life insurance policies and, to the extent applicable, to purchase and hold an annuity in a manner consistent with the parameters outlined in the interagency statement of the purchase and risk management of life insurance, issued by the office of the comptroller of the currency, the board of governors of the federal reserve system, the federal deposit insurance corporation and the office of the thrift supervision on December 7, 2004; and set out in the respective agencies' issuances, including the federal deposit insurance corporation financial institution letter 127-2004, effective December 7, 2004, subject to the following limitations:

(A) The cash surrender value of any life insurance policy or policies underwritten by any one life insurance company shall not at any time exceed 15% of the total of the bank's capital stock, surplus, undivided profits, 100% of the allowance for loan and lease losses, capital notes and debentures and reserve for contingencies, unless the bank has obtained the prior approval of the commissioner;

(B) the cash surrender value of life insurance policies, in the aggregate from all companies, cannot at any time exceed 25% of the total of the bank's capital stock, surplus, undivided profits, 100% of the allowance for loan and lease losses, capital notes and debentures and reserve for contingencies, unless the bank has obtained the prior approval of the state bank commissioner;

(C) the limitations set forth in subparagraphs (A) and (B) shall not apply to any life insurance policy in place prior to July 1, 1993; and

(D) for the purposes of subsections (a)(20)(A) and (a)(20)(B), intangibles, such as goodwill, shall not be included in the calculation of capital;

(21) act as an agent and receive deposits, renew time deposits, close loans, service loans and receive payments on loans and other obligations for any company which is a subsidiary, as defined in K.S.A. 9-519, and amendments thereto, of the bank holding company which owns the bank. Nothing in this subsection shall authorize a bank to conduct activities as an agent which the bank or the subsidiary would be prohibited from conducting as a principal under any applicable federal or state law. Any bank which enters or terminates any agreement pursuant to this subsection shall within 30 days of the effective date of the agreement or termination provide written notification to the commissioner which details all parties involved and services to be performed or terminated;

(22) to make loans to the bank's stockholders or the bank's controlling holding company stockholders on the security of the shares of the bank or the bank's controlling bank holding company, but loans on the security of the shares of the bank may occur only if the bank would have extended credit to such stockholder on exactly the same terms without the bank shares pledged as collateral;

(23) to make investments in and loans to community and economic

development entities as defined in K.S.A. 9-701, and amendments thereto, subject to the limitations prescribed by community reinvestment act pub. l. 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

(24) to participate in a school savings deposit program authorized under K.S.A. 9-1138, and amendments thereto;

(25) with prior approval of the commissioner, to control or hold an interest in a financial subsidiary.

(A) The financial subsidiary may engage in one or more of the following activities:

(i) Lending, exchanging, transferring, investing for others or safeguarding money or securities;

(ii) acting as agent or broker for purposes of insuring, guaranteeing or indemnifying against loss, harm, damage, illness, disability, death or providing annuities as agent or broker subject to the requirements of chapter 40 of the Kansas Statutes Annotated, and amendments thereto;

(iii) issuing or selling instruments representing interests in pools or assets permissible for a bank to hold directly;

(iv) operating a travel agency; and

(v) activities that are financial in nature as determined by the commissioner.

(B) Such activities do not include:

(i) Insuring, guaranteeing or indemnifying against loss, harm, damage, illness, disability, death or providing or issuing annuities the income of which is subject to tax treatment under 26 U.S.C. § 72;

(ii) real estate development or real estate investment, except as otherwise expressly authorized by Kansas law; or

(iii) any activity permitted for financial holding companies under 12 U.S.C. § 1843(k)(4)(H) and (I).

(C) As used in subsection (a)(25), “control” means:

(i) Directly or indirectly owning, controlling or having power to vote 25% or more of any class of the voting shares of a financial subsidiary;

(ii) controlling in any manner the election of a majority of the directors or trustees of the financial subsidiary; or

(iii) otherwise directly or indirectly exercising a controlling influence over the management or policies of the financial subsidiary, as determined by the commissioner;

(26) to maintain and operate a postal substation on banking premises, in accordance with the rules and regulations of the United States postal service. The bank may advertise the services of the substation for the purpose of attracting customers to the bank and receive income therefrom. The bank shall keep the books and records of the substation separate from the records of other banking operations;

(27) with prior approval of the commissioner, to invest in foreign bonds an amount not to exceed 1% of the bank’s capital stock and surplus as long as such bonds comply with the form and definition of investment securities;

(28) to act as an agent for any credit life, health and accident insurance, sometimes referred to as credit life and disability insurance, and mortgage life and disability insurance in connection with extensions of credit and only as a source of protection for such extension of credit;

(29) to act as agent for any fire, life or other insurance company authorized to do business in this state at any approved office of the bank which is located in any place the population does not exceed 5,000 inhabitants. Such insurance may be sold to existing and potential customers of the bank regardless of the geographic location of the customers;

(30) to become a stockholder and member of the federal reserve bank of the federal reserve district where such bank is located;

(31) with prior approval of the commissioner, to acquire the stock of, or establish and operate a subsidiary to acquire the stock of, another insured depository institution or the holding company of the insured depository institution provided such acquisition is incidental to a reorganization otherwise authorized by the law of this state and which occurs nearly simultaneously with such acquisition;

(32) with prior approval of the commissioner, to establish and operate a subsidiary for the purpose of owning, holding and managing all or part of the bank’s securities portfolio provided the parent bank owns 100% of the stock of the subsidiary and the subsidiary shall not own, hold or man-

age securities for any party other than the parent bank. The subsidiary shall be subject to:

(A) All banking laws and rules and regulations applicable to the parent bank unless otherwise provided;

(B) consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;

(C) examination and supervision by the commissioner, the cost and responsibility of which will be attributable to the parent bank; and

(D) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns;

(33) with prior approval of the commissioner, to establish or acquire operating subsidiaries for the purpose of engaging in any activity which is part or incidental to the business of banking as long as the parent bank owns at least 50% of the stock of the subsidiary. The subsidiary shall be subject to:

(A) All banking laws and regulations applicable to the parent bank unless otherwise provided;

(B) consolidation with the parent bank of pertinent book figures for the purpose of applying all applicable statutory limitations including, but not limited to, capital requirements, owning and holding real estate and legal lending limitations;

(C) examination and supervision by the commissioner the cost and responsibility of which will be attributable to the parent bank; and

(D) any additional terms or conditions required by the commissioner to address any legal or safety and soundness concerns;

(34) to invest in, without limitation, obligations of or obligations which are insured as to principal and interest by or evidences of indebtedness that are fully collateralized by obligations of the federal home loan banks, the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, the student loan marketing association and the federal farm credit banks;

(35) any bank or trust company may invest in bonds or notes secured by mortgages which in turn are insured or upon which there is a commitment to insure by the federal housing administration, or any successor thereto, in debentures issued by the federal housing administration or any successor, and in obligations of national mortgage associations; and

(36) to buy tax credits for certain historic structure rehabilitation expenditures pursuant to K.S.A. 2017 Supp. 79-32,211, and amendments thereto. The total amount of such tax credits held by a bank shall at no time exceed 25% of the capital stock, surplus, undivided profits, 100% of the allowance for loan and lease loss, capital notes and debentures and reserve for contingencies of such bank.

(b) Any bank hereby is authorized to exercise by the bank's board of directors or duly authorized officers or agents, subject to approval by the commissioner, any incidental power necessary to carry on the business of banking.

Sec. 22. K.S.A. 2017 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife or cohabiting partners are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse, cohabiting partner or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for temporary assistance for needy families, for food assistance and for any other assistance provided through the Kansas de-

partment for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any boat, personal water craft, recreational vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance except that any additional motor vehicle used by the applicant, the applicant's spouse or the applicant's cohabiting partner for the primary purpose of earning income may be considered as exempt personal property in the secretary's discretion.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Temporary assistance for needy families.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as temporary assistance for needy families. Where the husband and wife or cohabiting partners are living together, both shall register for work under the program requirements for temporary assistance for needy families in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(1) As used in this subsection, "family group" or "household" means the applicant or recipient for TANF, child care subsidy or employment services and all individuals living together in which there is a relationship of legal responsibility or a qualifying caretaker relationship. This will include a cohabiting boyfriend or girlfriend living with the person legally responsible for the child. The family group shall not be eligible for TANF if the family group contains at least one adult member who has received TANF, including the federal TANF assistance received in any other state, for 24 calendar months beginning on and after October 1, 1996, unless the secretary determines a hardship exists and grants an extension allowing receipt of TANF until the 36-month limit is reached. No extension beyond 36 months shall be granted. Hardship provisions for a recipient include:

(A) Is a caretaker of a disabled family member living in the household;

(B) has a disability which precludes employment on a long-term basis or requires substantial rehabilitation;

(C) needs a time limit extension to overcome the effects of domestic violence/sexual assault;

(D) is involved with prevention and protection services (PPS) and has an open social service plan; or

(E) is determined by the 24th month to have an extreme hardship other than what is designated in criteria listed in subparagraphs (A) through (D). This determination will be made by the executive review team.

(2) All adults applying for TANF shall be required to complete a work program assessment as specified by the Kansas department for children and families, including those who have been disqualified for or denied TANF due to non-cooperation, drug testing requirements or fraud. Adults who are not otherwise eligible for TANF, such as ineligible aliens, relative/non-relative caretakers and adults receiving supplemental security income are not required to complete the assessment process. During the application processing period, applicants must complete at least one module or its equivalent of the work program assessment to be considered eligible for TANF benefits, unless good cause is found to be exempt from the requirements. Good cause exemptions shall only include:

(A) The applicant can document an existing certification verifying completion of the work program assessment;

(B) the applicant has a valid offer of employment or is employed a minimum of 20 hours a week;

(C) the applicant is a parenting teen without a GED or high school diploma;

(D) the applicant is enrolled in job corps;

(E) the applicant is working with a refugee social services agency; or

(F) the applicant has completed the work program assessment within the last 12 months.

(3) The department for children and families shall maintain a sufficient level of dedicated work program staff to enable the agency to conduct work program case management services to TANF recipients in a timely manner and in full accordance with state law and agency policy.

(4) TANF mandatory work program applicants and recipients shall participate in work components that lead to competitive, integrated employment. Components are defined by the federal government as being either primary or secondary. In order to meet federal work participation requirements, households need to meet at least 30 hours of participation per week, at least 20 hours of which need to be primary and at least 10 hours may be secondary components in one parent households where the youngest child is six years of age or older. Participation hours shall be 55 hours in two parent households (35 hours per week if child care is not used). The maximum assignment is 40 hours per week per individual. For two parent families to meet the federal work participation rate both parents must participate in a combined total of 55 hours per week, 50 hours of which must be in primary components, or one or both parents could be assigned a combined total of 35 hours per week (30 hours of which must be primary components) if department for children and families paid child care is not received by the family. Single parent families with a child under age six meet the federal participation requirement if the parent is engaged in work or work activities for at least 20 hours per week in a primary work component. The following components meet federal definitions of primary hours of participation: Full or part-time employment, apprenticeship, work study, self-employment, job corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, job search and job readiness. Secondary components include: Job skills training, education directly related to employment such as adult basic education and English as a second language, and completion of a high school diploma or GED.

(5) A parent or other adult caretaker personally providing care for a child under the age of three months in their TANF household is exempt from work participation activities until the month the child turns three months of age. Such three-month limitation shall not apply to a parent or other adult caretaker who is personally providing care for a child born significantly premature, with serious medical conditions or with a disability as defined by the secretary, in consultation with the secretary of health and environment, and adopted in the rules and regulations. The three-month period is defined as two consecutive months starting with the month after childbirth. The exemption for caring for a child under three months cannot be claimed:

(A) By either parent when two parents are in the home and the household meets the two-parent definition for federal reporting purposes;

(B) by one parent or caretaker when the other parent or caretaker is in the home, and available, capable and suitable to provide care and the household does not meet the two-parent definition for federal reporting purposes;

(C) by a person age 19 or younger when such person is pregnant or a parent of a child in the home and the person does not possess a high school diploma or its equivalent. Such person shall become exempt the month such person turns age 20; or

(D) by any person assigned to a work participation activity for substance use disorders.

(6) TANF work experience placements shall be reviewed after 90 days and are limited to six months per 24-month lifetime limit. A client's progress shall be reviewed prior to each new placement regardless of the length of time they are at the work experience site.

(7) TANF participants with disabilities shall engage in required employment activities to the maximum extent consistent with their abilities. TANF participants shall provide current documentation by a qualified medical practitioner that details the abilities to engage in employment and any limitations in work activities along with the expected duration of such limitations. Disability is defined as a physical or mental impairment constituting or resulting in a substantial impediment to employment for such individual.

(8) Non-cooperation is the failure of the applicant or recipient to

comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for TANF benefits based on non-cooperation with work programs shall be as follows:

(A) For a first penalty, three months and full cooperation with work program activities;

(B) for a second penalty, six months and full cooperation with work program activities;

(C) for a third penalty, one year and full cooperation with work program activities; and

(D) for a fourth or subsequent penalty, 10 years.

(9) Individuals that have not cooperated with TANF work programs shall be ineligible to participate in the food assistance program. The comparable penalty shall be applied to only the individual in the food assistance program who failed to comply with the TANF work requirement. The agency shall impose the same penalty to the member of the household who failed to comply with TANF requirements. The penalty periods are three months, six months, one year, or 10 years.

(10) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for child care subsidy or TANF benefits based on parents' non-cooperation with child support services shall be as follows:

(A) For the first penalty, three months and cooperation with child support services prior to regaining eligibility;

(B) for a second penalty, six months and cooperation with child support services prior to regaining eligibility;

(C) for a third penalty, one year and cooperation with child support services prior to regaining eligibility; and

(D) for a fourth penalty, 10 years.

(11) Individuals that have not cooperated without good cause with child support services shall be ineligible to participate in the food assistance program. The period of disqualification ends once it has been determined that such individual is cooperating with child support services.

(12) (A) Any individual who is found to have committed fraud or is found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2017 Supp. 21-5801, and amendments thereto, in either the TANF or child care program shall render all adults in the family unit ineligible for TANF assistance. Adults in the household who were determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2017 Supp. 21-5801, and amendments thereto, shall render themselves and all adult household members ineligible for their lifetime for TANF, even if fraud was committed in only one program. Households who have been determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2017 Supp. 21-5801, and amendments thereto, shall be required to name a protective payee as approved by the secretary or the secretary's designee to administer TANF benefits or food assistance on behalf of the children. No adult in a household may have access to the TANF cash assistance benefit.

(B) Any individual that has failed to cooperate with a fraud investigation shall be ineligible to participate in the TANF cash assistance program and the child care subsidy program until the department for children and families determines that such individual is cooperating with the fraud investigation. The department for children and families shall maintain a sufficient level of fraud investigative staff to enable the department to conduct fraud investigations in a timely manner and in full accordance with state law and department rules and regulations or policies.

(13) (A) Food assistance shall not be provided to any person convicted of a felony offense occurring on or after July 1, 2015, which includes as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog. For food assistance, the individual shall be permanently disqualified if they have been convicted of a state or federal felony offense occurring on or after July 1, 2015, involving possession or use of a controlled substance or controlled substance analog.

(B) Notwithstanding the provisions of subparagraph (A), an individual shall be eligible for food assistance if the individual enrolls in and partic-

ipates in a drug treatment program approved by the secretary, submits to and passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

An individual's failure to submit to testing or failure to successfully pass a drug test shall result in ineligibility for food assistance until a drug test is successfully passed. Failure to successfully complete a drug treatment program shall result in ineligibility for food assistance until a drug treatment plan approved by the secretary is successfully completed, the individual passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

(C) The provisions of subparagraph (B) shall not apply to any individual who has been convicted for a second or subsequent felony offense as provided in subparagraph (A).

(14) No TANF cash assistance shall be used to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets or tickets for other entertainment events intended for the general public or sexually oriented adult materials. No TANF cash assistance shall be used in any retail liquor store, casino, gaming establishment, jewelry store, tattoo parlor, massage parlor, body piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond company, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or sexually oriented business or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or in any business or retail establishment where minors under age 18 are not permitted. No TANF cash assistance shall be used for purchases at points of sale outside the state of Kansas.

(15) (A) The secretary for children and families shall place a photograph of the recipient, if agreed to by such recipient of public assistance, on any Kansas benefits card issued by the Kansas department for children and families that the recipient uses in obtaining food, cash or any other services. When a recipient of public assistance is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

(B) Any Kansas benefits card with a photograph of a recipient shall be valid for voting purposes as a public assistance identification card in accordance with the provisions of K.S.A. 25-2908, and amendments thereto.

(C) As used in this paragraph and its subparagraphs, "Kansas benefits card" means any card issued to provide food assistance, cash assistance or child care assistance, including, but not limited to, the vision card, EBT card and Kansas benefits card.

(D) The Kansas department for children and families shall monitor all recipient requests for a Kansas benefits card replacement and, upon the fourth such request in a 12-month period, send a notice alerting the recipient that the recipient's account is being monitored for potential suspicious activity. If a recipient makes an additional request for replacement subsequent to such notice, the department shall refer the investigation to the department's fraud investigation unit.

(16) The secretary for children and families shall adopt rules and regulations:

(A) In determining eligibility for the child care subsidy program, including an income of a cohabiting partner in a child care household; and

(B) in determining and maintaining eligibility for non-TANF child care, requiring that all included adults shall be employed a minimum of 20 hours per week or more as defined by the secretary or meet the following specific qualifying exemptions:

(i) Adults who are not capable of meeting the requirement due to a documented physical or mental condition;

(ii) adults who are former TANF recipients who need child care for employment after their TANF case has closed and earned income is a factor in the closure in the two months immediately following TANF closure;

(iii) adult parents included in a case in which the only child receiving benefits is the child of a minor parent who is working on completion of high school or obtaining a GED;

(iv) adults who are participants in a food assistance employment and training program; or

(v) adults who are participants in an early head start child care partnership program and are working or in school or training.

The department for children and families shall provide child care for the pursuit of any degree or certification if the occupation has at least an average job outlook listed in the occupational outlook of the U.S. department of labor, bureau of labor statistics. For occupations with less than an average job outlook, educational plans shall require approval of the secretary or secretary's designee. Child care may also be approved if the student provides verification of a specific job offer that will be available to such student upon completion of the program. Child care for post-secondary education shall be allowed for a lifetime maximum of 24 months per adult. The 24 months may not have to be consecutive. Students shall be engaged in paid employment for a minimum of 15 hours per week. In a two-parent adult household, child care would not be allowed if both parents are adults and attending a formal education or training program at the same time. The household may choose which one of the parents is participating as a post-secondary student. The other parent shall meet another approvable criteria for child care subsidy.

(17) (A) The secretary for children and families is prohibited from requesting or implementing a waiver or program from the U.S. department of agriculture for the time limited assistance provisions for able-bodied adults aged 18 through 49 without dependents in a household under the food assistance program. The time on food assistance for able-bodied adults aged 18 through 49 without dependents in the household shall be limited to three months in a 36-month period if such adults are not meeting the requirements imposed by the U.S. department of agriculture that they must work for at least 20 hours per week or participate in a federally approved work program or its equivalent.

(B) Each food assistance household member who is not otherwise exempt from the following work requirements shall: Register for work; participate in an employment and training program, if assigned to such a program by the department; accept a suitable employment offer; and not voluntarily quit a job of at least 30 hours per week.

(C) Any recipient who has not complied with the work requirements under subparagraph (B) shall be ineligible to participate in the food assistance program for the following time period and until the recipient complies with such work requirements:

- (i) For a first penalty, three months;
- (ii) for a second penalty, six months; and
- (iii) for a third penalty and any subsequent penalty, one year.

(18) Eligibility for the food assistance program shall be limited to those individuals who are citizens or who meet qualified non-citizen status as determined by U.S. department of agriculture. Non-citizen individuals who are unable or unwilling to provide qualifying immigrant documentation, as defined by the U.S. department of agriculture, residing within a household shall not be included when determining the household's size for the purposes of assigning a benefit level to the household for food assistance or comparing the household's monthly income with the income eligibility standards. The gross non-exempt earned and unearned income and resources of disqualified individuals shall be counted in its entirety as available to the remaining household members.

(19) The secretary for children and families shall not enact the state option from the U.S. department of agriculture for broad-based categorical eligibility for households applying for food assistance according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).

(20) No federal or state funds shall be used for television, radio or billboard advertisements that are designed to promote food assistance benefits and enrollment. No federal or state funding shall be used for any agreements with foreign governments designed to promote food assistance.

(21) (A) The secretary for children and families shall not apply gross income standards for food assistance higher than the standards specified in 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical eligibility exempting households from such gross income standards requirements shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(B) The secretary for children and families shall not apply resource limits standards for food assistance that are higher than the standards specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal law. Categorical eligibility exempting households from such resource limits shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(c) (1) On and after January 1, 2017, the department for children and families shall conduct an electronic check for any false information provided on an application for TANF and other benefits programs administered by the department. For TANF cash assistance, food assistance and the child care subsidy program, the department shall verify the identity of all adults in the assistance household.

(2) The department of administration shall provide monthly to the Kansas department for children and families the social security numbers or alternate taxpayer identification numbers of all persons who claim a Kansas lottery prize in excess of \$5,000 during the reported month. The Kansas department for children and families shall verify if individuals with such winnings are receiving TANF cash assistance, food assistance or assistance under the child care subsidy program and take appropriate action. The Kansas department for children and families shall use data received under this subsection solely, and for no other purpose, to determine if any recipient's eligibility for benefits has been affected by lottery prize winnings. The Kansas department for children and families shall not publicly disclose the identity of any lottery prize winner, including recipients who are determined to have illegally received benefits.

(d) *Temporary assistance for needy families; assignment of support rights and limited power of attorney.* By applying for or receiving temporary assistance for needy families such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrender of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving temporary assistance for needy families, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney-in-fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to K.S.A.

16-303(c), and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient. Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, unless the legislature expressly consents to, and approves of, the expansion of medicaid services by an act of the legislature.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, “public assistance” includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term

care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.*

(1) (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in on behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to K.S.A. 39-756(d), and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance. Amounts collected pursuant to the assignment of rights to payment for medical care from a third party shall also be retained by the secretary for repayment of the unreimbursed portion of assistance.

(B) Notwithstanding the provisions of subparagraph (A), the secretary of health and environment, or the secretary's designee, is hereby authorized to and shall exercise any of the powers specified in subparagraph (A) in relation to performance of such secretary's duties pertaining to medical subrogation, estate recovery or any other duties assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is: (A) A claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both; and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 17-2263, ~~17-2264~~, ~~17-5828~~ or ~~17-5829~~ or 17-2264, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) except after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where

there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection. The secretary of health and environment is authorized to enforce each claim provided for under this subsection. The secretary of health and environment shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary of health and environment from claims under this subsection shall be deposited in the social welfare fund. The secretary of health and environment may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection.

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recip-

ient is discharged, returns home and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- (A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary of health and environment or the secretary's designee;
- (B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or
- (C) the value of the real property is consumed by the lien, at which time the secretary of health and environment or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(9) All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this subsection shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment until revised, amended, revoked or nullified pursuant to law.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2017 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the

secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge or violation of a condition of probation or parole imposed under federal or state law shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of temporary assistance for needy families is a mother of the dependent child, as a condition of the mother's eligibility for temporary assistance for needy families the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of temporary assistance for needy families who fails to cooperate with requirements relating to child support services under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary.

(k) By applying for or receiving child care benefits or food assistance, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food assistance, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of temporary assistance for needy families.

(l) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on and before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug

screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance who fails to complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive cash assistance until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and con-

trolled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2017 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2017 Supp. 21-5701, and amendments thereto.

Sec. 23. K.S.A. 2017 Supp. 58-3974 is hereby amended to read as follows: 58-3974. (a) The provisions of this act shall not apply to any tangible or intangible personal property which is subject to the provisions of K.S.A. 8-1101, 8-1102, 9-1918, 10-815, 17-2206a, ~~17-5564~~, 19-320, 47-229, 47-230, 47-232, 47-236 ~~to through 47-239, inclusive~~, 59-514, 59-901 ~~to through 59-905, inclusive~~, 70-101, ~~70-102, 70-103 and through 70-104~~, and amendments thereto.

(b) This act shall not apply to any personal property which is being administered or has been distributed under the provisions of K.S.A. 59-2701 ~~to through 59-2707, inclusive~~, and amendments thereto.

(c) This act shall not apply to any patronage dividend or capital credit held or owing by any cooperative association, society or corporation organized under the provisions of K.S.A. 17-1501 et seq., 17-1601 et seq. or 17-4601 et seq., and amendments thereto.

(d) This act shall not apply to any patronage dividend or any capital credit held or owing by any public utility which is a member-owned non-profit corporation organized under the provisions of K.S.A. 17-6001 et seq., and amendments thereto.

Sec. 24. K.S.A. 2017 Supp. 75-3036 is hereby amended to read as follows: 75-3036. (a) The state general fund is exclusively defined as the fund into which shall be placed all public moneys and revenue coming into the state treasury not specifically authorized by the constitution or by statute to be placed in a separate fund, and not given or paid over to the state treasurer in trust for a particular purpose, which unallocated public moneys and revenue shall constitute the general fund of the state. Moneys received or to be used under constitutional or statutory provisions or under the terms of a gift or payment for a particular and specific

purpose are to be kept as separate funds and shall not be placed in the general fund or ever become a part of it.

(b) The following funds shall be used for the purposes set forth in the statutes concerning such funds and for no other governmental purposes. It is the intent of the legislature that the following funds and the moneys deposited in such funds shall remain intact and inviolate for the purposes set forth in the statutes concerning such funds: Board of accountancy fee fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special litigation reserve fund of the board of accountancy; bank commissioner fee fund, K.S.A. 9-1703, 16a-2-302, ~~17-5610, 17-5701~~ and 75-1308, and amendments thereto, bank investigation fund, K.S.A. 9-1111b, and amendments thereto, consumer education settlement fund and litigation expense fund of the state bank commissioner; securities act fee fund and investor education and protection fund, K.S.A. 17-12a601, and amendments thereto, of the office of the securities commissioner of Kansas; credit union fee fund, K.S.A. 17-2236, and amendments thereto, of the state department of credit unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto, and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and amendments thereto, of the state fire marshal; food service inspection reimbursement fund, K.S.A. 36-512, and amendments thereto, of the Kansas department of agriculture; wage claims assignment fee fund, K.S.A. 44-324, and amendments thereto, and workmen's compensation fee fund, K.S.A. 74-715, and amendments thereto, of the department of labor; veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of the state board of veterinary examiners; mined-land reclamation fund, K.S.A. 49-420, and amendments thereto, of the department of health and environment; conservation fee fund and well plugging assurance fund, K.S.A. 55-155, 55-176, 55-609, 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155, and amendments thereto, and public service regulation fund, K.S.A. 66-1503, and amendments thereto, of the state corporation commission; land survey fee fund, K.S.A. 58-2011, and amendments thereto, of the state historical society; real estate recovery revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas real estate commission; appraiser fee fund, K.S.A. 58-4107, and amendments thereto, and appraisal management companies fee fund of the real estate appraisal board; amygdalin (laetrile) enforcement fee fund, K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and amendments thereto, of the state board of mortuary arts; board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 74-2704, and amendments thereto, of the Kansas state board of cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, and medical records maintenance trust fund, of the state board of healing arts; other state fees fund, K.S.A. 2017 Supp. 65-4024b, and amendments thereto, of the Kansas department for aging and disability services; board of nursing fee fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing; dental board fee fund, K.S.A. 74-1405, and amendments thereto, and special litigation reserve fund, of the Kansas dental board; optometry fee fund, K.S.A. 74-1503, and amendments thereto, and optometry litigation fund, of the board of examiners in optometry; state board of pharmacy fee fund, K.S.A. 74-1609, and amendments thereto, and state board of pharmacy litigation fund, of the state board of pharmacy; abstracters' fee fund, K.S.A. 74-3903, and amendments thereto, of the abstracters' board of examiners; athletic fee fund, K.S.A. 2017 Supp. 74-50,188, and amendments thereto, of the department of commerce; hearing instrument board fee fund, K.S.A. 74-5805, and amendments thereto, and hearing instrument litigation fund of the Kansas board of examiners in fitting and dispensing of hearing instruments; commission on disability concerns fee fund, K.S.A. 74-6708, and amendments thereto, of the governor's department; technical professions fee fund, K.S.A. 74-7009, and amendments thereto, and special litigation reserve fund of the state board of technical professions; behavioral sciences regulatory board fee fund, K.S.A. 74-7506, and amendments thereto, of the behavioral sciences regulatory board; governmental ethics commission fee fund,

K.S.A. 25-4119e, and amendments thereto, of the governmental ethics commission; emergency medical services board operating fund, K.S.A. 75-1514, and amendments thereto, of the emergency medical services board; fire service training program fund, K.S.A. 75-1514, and amendments thereto, of the university of Kansas; uniform commercial code fee fund, K.S.A. 2017 Supp. 75-448, and amendments thereto, of the secretary of state; prairie spirit rails-to-trails fee fund of the Kansas department of wildlife, parks and tourism; water marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the Kansas water office; insurance department service regulation fund, K.S.A. 40-112, and amendments thereto, of the insurance department; state fair special cash fund, K.S.A. 2-220, and amendments thereto, of the state fair board; scrap metal theft reduction fee fund, K.S.A. 2017 Supp. 50-6,109a, and amendments thereto; and any other fund in which fees are deposited for licensing, regulating or certifying a person, profession, commodity or product.

(c) If moneys received pursuant to statutory provisions for a specific purpose by a fee agency are proposed to be transferred to the state general fund or a special revenue fund to be expended for general government services and purposes in the governor's budget report submitted pursuant to K.S.A. 75-3721, and amendments thereto, or any introduced house or senate bill, the person or business entity who paid such moneys within the preceding 24-month period shall be notified by the fee agency within 30 days of such submission or introduction:

(1) By electronic means, if the fee agency has an electronic address on record for such person or business entity. If no such electronic address is available, the fee agency shall send written notice by first class mail; or

(2) any agency that receives fees from a tax, fee, charge or levy paid to the commissioner of insurance shall post the notification required by this subsection on such agency's website.

(d) Any such moneys which are wrongfully or by mistake placed in the general fund shall constitute a proper charge against such general fund. All legislative appropriations which do not designate a specific fund from which they are to be paid shall be considered to be proper charges against the general fund of the state. All revenues received by the state of Kansas or any department, board, commission, or institution of the state of Kansas, and required to be paid into the state treasury shall be placed in and become a part of the state general fund, except as otherwise provided by law.

(e) The provisions of this section shall not apply to the 10% credited to the state general fund to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, as provided in K.S.A. 75-3170a, and amendments thereto.

(f) Beginning on January 8, 2018, the director of the budget shall prepare a report listing the unencumbered balance of each fund in subsection (b) on June 30 of the previous fiscal year and January 1 of the current fiscal year. Such report shall be delivered to the secretary of the senate and the chief clerk of the house of representatives on or before the first day of the regular legislative session each year.

(g) As used in this section, "fee agency" shall include the state agencies specified in K.S.A. 75-3717(f), and amendments thereto, and any other state agency that collects fees for licensing, regulating or certifying a person, profession, commodity or product.

Sec. 25. K.S.A. 2017 Supp. 75-3170a is hereby amended to read as follows: 75-3170a. (a) The 10% credit to the state general fund required by K.S.A. 1-204, 9-1703, 16a-2-302, 17-12a601, 17-2236, ~~17-5610, 17-5701~~, 20-1a02, 20-1a03, 31-133a, 31-134, 36-512, 44-324, 44-926, 47-820, 49-420, 55-155, 55-176, 55-609, 55-711, 55-901, 58-2011, 58-3074, 58-4107, 65-6b10, 65-1718, 65-1817a, 65-1951, 65-2011, 65-2855, 65-2911, 65-4024b, 65-5413, 65-5513, 65-6910, 65-7210, 65-7309, 66-1,155, 66-1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704, 74-3903, 74-50,188, 74-5805, 74-6708, 74-7009, 74-7506, 75-1119b, 75-1308, 75-1514, 84-9-801, and amendments thereto, is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, which are performed on behalf of the state agency involved by other state agen-

cies which receive appropriations from the state general fund to provide such services.

(b) Nothing in this act or in the sections amended by this act or referred to in subsection (a), shall be deemed to authorize remittances to be made less frequently than is authorized under K.S.A. 75-4215, and amendments thereto.

(c) Notwithstanding any provision of any statute referred to in or amended by this act or referred to in subsection (a), whenever in any fiscal year such 10% credit to the state general fund in relation to any particular fee fund is \$100,000, in that fiscal year the 10% credit no longer shall apply to moneys received from sources applicable to such fee fund and for the remainder of such year the full 100% so received shall be credited to such fee fund.

Sec. 26. K.S.A. 2017 Supp. 9-512 is hereby amended to read as follows: 9-512. (a) The commissioner, after notice and an opportunity for hearing, may issue an order to address any violation of this act *or rules and regulations adopted pursuant thereto*:

(1) Assessing a fine against any person who violates this act, or rules and regulations adopted thereto, in an amount not to exceed \$5,000 per violation;

(2) assessing the agency's operating costs and expenses for investigating and enforcing this act;

(3) requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation;

(4) barring the person from future application for licensure pursuant to the act; and

(5) requiring such affirmative action as in the judgment of the commissioner which will carry out the purposes of this act.

(b) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act, rules and regulations adopted thereto, or an order issued pursuant to this act.

(c) *The commissioner may enter into an informal agreement at any time with a person to resolve a matter arising under this act, rules and regulations adopted pursuant thereto, or an order issued pursuant to this act. The adoption of an informal agreement authorized by this subsection shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement authorized by this subsection shall not be considered an order or other agency action, and shall be considered confidential examination material pursuant to K.S.A. 9-513c, and amendments thereto. All such examination material shall also be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.*

~~(d)~~ Any person who knowingly violates any provision of this act shall be guilty of a severity level 9, nonperson felony. Each transaction in violation of this act and each day that a violation continues shall be a separate offense. Whenever a corporation violates any provision of this act, such violation shall be attributed to individual directors, officers and agents who have authorized, ordered or performed any of the acts constituting such violation.

~~(e)~~ A corporation and its directors, officers and agents may each be prosecuted separately for violations of this act and the acquittal or conviction of one such director, officer or agent shall not abate the prosecution of the others.

~~(f)~~ Whenever it appears that a person has violated, or is likely to violate, this act, rules and regulations adopted thereunder, or an order issued pursuant to this act, then the commissioner may bring an action for injunctive relief to enjoin the violation or enforce compliance, regardless of whether or not criminal proceedings have been instituted. Any person who engages in activities that are regulated and require a license under this act shall be considered to have consented to the jurisdiction of the courts of this state for all actions arising under this act.

Sec. 27. K.S.A. 2017 Supp. 9-513 is hereby amended to read as follows: 9-513. The commissioner *and the commissioner's designees* shall ~~rely on the deputy commissioner of the banking division established pursuant to K.S.A. 75-3135, and amendments thereto, and such deputy's staff~~ to administer, interpret and enforce this act for the purpose of protecting the citizens of this state, against financial loss, who purchase payment instruments or who give money or control of their funds or credit into the custody of another person for transmission, regardless of whether the transmitter has any office, facility, agent or other physical presence in the state.

Sec. 28. K.S.A. 17-5101, 17-5102, 17-5201, 17-5202, 17-5203, 17-5204, 17-5205, 17-5206, 17-5207, 17-5208, 17-5209, 17-5210, 17-5211, 17-5212, 17-5213, 17-5214, 17-5215, 17-5216, 17-5217, 17-5218, 17-5219, 17-5220, 17-5221, 17-5225, 17-5225a, 17-5225b, 17-5225c, 17-5226, 17-5227, 17-5228, 17-5229, 17-5230, 17-5301, 17-5302, 17-5303, 17-5304, 17-5305, 17-5306, 17-5307, 17-5308, 17-5309, 17-5310, 17-5311, 17-5312, 17-5313, 17-5314, 17-5315, 17-5316, 17-5317, 17-5318, 17-5319, 17-5320, 17-5321, 17-5322, 17-5323, 17-5324, 17-5325, 17-5326, 17-5327, 17-5328, 17-5329, 17-5401, 17-5402, 17-5403, 17-5404, 17-5405, 17-5406, 17-5407, 17-5408, 17-5409, 17-5410, 17-5412, 17-5413, 17-5414, 17-5415, 17-5416, 17-5417, 17-5418, 17-5419, 17-5420, 17-5421, 17-5422, 17-5423, 17-5424, 17-5425, 17-5426, 17-5427, 17-5428, 17-5429, 17-5430, 17-5501, 17-5501c, 17-5502, 17-5502a, 17-5503, 17-5504, 17-5505, 17-5506, 17-5508, 17-5509, 17-5510, 17-5511, 17-5512, 17-5512a, 17-5513, 17-5514, 17-5515, 17-5516, 17-5517, 17-5519, 17-5520, 17-5521, 17-5522, 17-5523, 17-5524, 17-5525, 17-5526, 17-5527, 17-5528, 17-5529, 17-5530, 17-5531, 17-5532, 17-5533, 17-5534, 17-5535, 17-5536, 17-5537, 17-5538, 17-5539, 17-5540, 17-5541, 17-5542, 17-5543, 17-5544, 17-5545, 17-5546, 17-5547, 17-5548, 17-5549, 17-5550, 17-5551, 17-5552, 17-5553, 17-5554, 17-5555, 17-5556, 17-5557, 17-5558, 17-5559, 17-5560, 17-5561, 17-5562, 17-5563, 17-5564, 17-5565, 17-5566, 17-5567, 17-5568, 17-5569, 17-5570, 17-5571, 17-5572, 17-5601, 17-5602, 17-5603, 17-5604, 17-5605, 17-5606, 17-5607, 17-5609a, 17-5611, 17-5612, 17-5613, 17-5614, 17-5615, 17-5616, 17-5617, 17-5618, 17-5619, 17-5620, 17-5621, 17-5622, 17-5623, 17-5624, 17-5625, 17-5626, 17-5627, 17-5628, 17-5629, 17-5630, 17-5631, 17-5632, 17-5633, 17-5634, 17-5635, 17-5636, 17-5637, 17-5638, 17-5639, 17-5640, 17-5641, 17-5642, 17-5643, 17-5644, 17-5645, 17-5702, 17-5703, 17-5704, 17-5705, 17-5706, 17-5801, 17-5802, 17-5803, 17-5804, 17-5805, 17-5806, 17-5807, 17-5808, 17-5809, 17-5810, 17-5811, 17-5812, 17-5814, 17-5816, 17-5817, 17-5818, 17-5819, 17-5820, 17-5821, 17-5822, 17-5823, 17-5824, 17-5825, 17-5826, 17-5827, 17-5830, 17-5831 and 17-5832 and K.S.A. 2017 Supp. 9-512, 9-513, 9-701, 9-808, 9-809, 9-901a, 9-902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-910, 9-911, 9-912, 9-1101, 17-5225d, 17-5610, 17-5701, 17-5828, 17-5829, 39-709, 58-3974, 75-3036 and 75-3170a are hereby repealed.

Sec. 29. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*