

## HOUSE BILL No. 2598

By Committee on Appropriations

4-25

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9 AN ACT reconciling amendments to certain statutes; amending section  
10 13 of 2007 Substitute for Senate Bill No. 354 and K.S.A. 8-234a, as  
11 amended by section 3 of 2007 Senate Bill No. 9, and 84-4-104, as  
12 amended by section 42 of 2007 Senate Bill No. 183, and K.S.A. 2006  
13 Supp. 8-243, as amended by section 5 of 2007 Senate Bill No. 9, 8-  
14 247, as amended by section 3 of 2007 Substitute for House Bill No.  
15 2042, 8-1325, as amended by section 11 of 2007 Senate Bill No. 9, 8-  
16 2117, 12-187, as amended by section 6 of 2007 Senate Bill No. 115,  
17 12-189, as amended by section 7 of 2007 Senate Bill No. 115, 12-192,  
18 as amended by section 8 of 2007 Senate Bill No. 115, 12-1773, 16-  
19 1616, as amended by section 27 of 2007 Senate Bill No. 183, 19-101a,  
20 as amended by section 57 of 2007 Senate Bill No. 66, 19-101d, as  
21 amended by section 4 of 2007 House Bill No. 2058, 20-302b, 21-3413,  
22 21-3612, 21-4714, 22-2401a, as amended by section 1 of 2007 Senate  
23 Bill No. 13, 28-170, 28-170a, 28-172a, 28-172b, 38-140, 39-709, 39-  
24 754, 39-756, 39-756a, 39-7,121d, 39-1305, 41-727, 44-703, as amended  
25 by section 1 of 2007 Senate Bill No. 83, 45-229, 59-104, 60-460, 60-  
26 2001, 61-2704, 61-4001, 65-1626, 72-6434, 72-8814, 74-2012, as  
27 amended by section 14 of 2007 Senate Bill No. 9, 74-4902, 74-5602,  
28 as amended by section 15 of 2007 Senate Bill No. 9, 74-7336, as  
29 amended by section 17 of 2007 Senate Bill No. 8, 75-2319, 75-5220,  
30 75-7023, 75-7025, 75-7413, 75-7414, 79-32,117, as amended by section  
31 21 of 2007 House Bill No. 2038, 79-32,120, as amended by section 22  
32 of 2007 House Bill No. 2038, 79-32,138, as amended by section 23 of  
33 2007 House Bill No. 2038, 79-3603, as amended by section 4 of 2007  
34 House Bill No. 2171, 84-1-201, as amended by section 9 of 2007 Sen-  
35 ate Bill No. 183, 84-2-103, as amended by section 33 of 2007 Senate  
36 Bill No. 183, 84-2a-103, as amended by section 35 of Senate Bill No.  
37 183, and 84-9-102, as amended by section 48 of 2007 Senate Bill No.  
38 183, and repealing the existing sections; also repealing section 11 of  
39 2007 Substitute for Senate Bill No. 354 and K.S.A. 8-234a, as amended  
40 by section 2 of 2007 Substitute for House Bill No. 2042, 38-16,130,  
41 59-104, as amended by section 18 of chapter 210 of the 2006 Session  
42 Laws of Kansas, and 84-4-104, as amended by section 62 of 2007 Sen-  
43 ate Bill No. 308, and K.S.A. 2005 Supp. 12-1773, as amended by sec-

1 tion 3 of chapter 192 of the 2006 Session Laws of Kansas, and K.S.A.  
2 2006 Supp. 8-243, as amended by section 25 of House Bill No. 2010,  
3 8-247, as amended by section 26 of 2007 House Bill No. 2010, 8-247,  
4 as amended by section 7 of 2007 Senate Bill No. 9, 8-1325, as amended  
5 by section 27 of 2007 House Bill No. 2010, 8-2117a, 12-187, as  
6 amended by section 1 of 2007 Senate Bill No. 112, 12-189, as amended  
7 by section 2 of 2007 Senate Bill No. 112, 12-192, as amended by sec-  
8 tion 3 of 2007 Senate Bill No. 112, 16-1616, as amended by section  
9 44 of 2007 Senate Bill No. 308, 19-101a, as amended by section 9 of  
10 2007 Senate Bill No. 115, 19-101d, as amended by section 1 of 2007  
11 House Bill No. 2161, 20-302e, 21-3413a, 21-3612a, 21-4714a, 22-  
12 2401a, as amended by section 3 of 2007 House Bill No. 2068, 28-170c,  
13 28-170d, 28-170e, 28-172e, 28-172f, 38-140a, 39-709d, 39-754a, 39-  
14 756b, 39-756c, 39-7,121f, 39-1305a, 41-727a, 44-703, as amended by  
15 section 1 of 2007 Senate Bill No. 235, 45-229a, 59-104a, 60-460a, 60-  
16 2001a, 60-4104a, 61-2704a, 61-4001a, 65-1626c, 72-6434a, 72-8814a,  
17 74-2012, as amended by section 1 of 2007 House Bill No. 2374, 74-  
18 4902a, 74-5602, as amended by section 2 of 2007 House Bill No. 2068,  
19 74-7336, as amended by section 16 of 2007 Substitute for Senate Bill  
20 No. 354, 75-2319a, 75-2319b, 75-5220a, 75-7023a, 75-7025a, 75-  
21 7413a, 75-7414a, 79-32,117, as amended by section 3 of 2007 House  
22 Bill No. 2031, 79-32,120, as amended by section 9 of 2007 House Bill  
23 No. 2419, 79-32,138, as amended by section 10 of 2007 House Bill  
24 No. 2419, 79-3603, as amended by section 1 of 2007 House Bill No.  
25 2240, 84-1-201, as amended by section 47 of 2007 Senate Bill No. 308,  
26 84-2-103, as amended by section 48 of 2007 Senate Bill No. 308, 84-  
27 2a-103, as amended by section 59 of 2007 Senate Bill No. 308, and  
28 84-9-102, as amended by section 65 of 2007 Senate Bill No. 308.  
29

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

31 Section 1. Section 13 of Substitute for Senate Bill No. 354 is hereby  
32 amended to read as follows: Sec. 13. K.S.A. 65-4001, 65-4006, 65-4007,  
33 65-4011 through 65-4019, 65-4023, 65-4024, and sections 2, 9, ~~11~~, 13 and  
34 14, and amendments thereto, shall be known and may be cited as the  
35 alcohol or other drug addiction treatment act.

36 Sec. 2. K.S.A. 8-234a, as amended by section 3 of 2007 Senate Bill  
37 No. 9, is hereby amended to read as follows: 8-234a. (a) As used in the  
38 motor vehicle drivers' license act, the following words and phrases shall  
39 have the meanings respectively ascribed to them herein:

40 (1) "Drivers' license examiner" or "examiner" means a drivers' li-  
41 cense examiner of the division of vehicles or any person whom the direc-  
42 tor of vehicles has authorized, pursuant to the authority granted by this  
43 act, to accept applications for drivers' licenses and administer the exam-

1 inations required for the issuance or renewal of drivers' licenses. *Any*  
2 *county treasurer authorized to accept applications for drivers' licenses or*  
3 *administer drivers' license examinations shall be deemed to be acting as*  
4 *an agent of the state of Kansas;*

5 (2) "nonresident" means every person who is not a resident of this  
6 state. For the purposes of the motor vehicle drivers' license act any person  
7 who owns, rents or leases real estate in Kansas as such person's residence  
8 and engages in a trade, business or profession within Kansas or registers  
9 to vote in Kansas or enrolls such person's children in a school in this state  
10 or purchases Kansas registration for a motor vehicle, shall be deemed a  
11 resident of the state of Kansas 90 days after the conditions stated in this  
12 subsection commence, except that military personnel on active duty and  
13 their military dependents who are residents of another state, shall not be  
14 considered residents of the state of Kansas for the purpose of this act;

15 (3) "patrol" means the state highway patrol;

16 (4) "address of principal residence" means: (A) The place where a  
17 person makes his or her permanent principal home; (B) place where a  
18 person resides, has an intention to remain and where they intend to return  
19 following an absence; or (C) place of habitation to which, whenever the  
20 person is absent, the person intends to return. If a person eats at one  
21 place and sleeps at another, the place where the person sleeps shall be  
22 considered the person's address of principal residence; and

23 (5) "state" means a state of the United States, the District of Colum-  
24 bia, Puerto Rico, the Virgin Islands, Guam, American Samoa and the  
25 Commonwealth of Northern Mariana Islands.

26 (b) As used in this act, the words and phrases defined by the sections  
27 in article 14 of chapter 8 of the Kansas Statutes Annotated, and amend-  
28 ments thereto, shall have the meanings respectively ascribed to them  
29 therein, unless a different meaning is ascribed to any such word or phrase  
30 by subsection (a) of this section.

31 Sec. 3. K.S.A. 2006 Supp. 8-243, as amended by section 5 of 2007  
32 Senate Bill No. 9, is hereby amended to read as follows: 8-243. (a) Upon  
33 payment of the required fee, the division shall issue to every applicant  
34 qualifying under the provisions of this act the driver's license as applied  
35 for by the applicant. Such license shall bear the class or classes of motor  
36 vehicles which the licensee is entitled to drive, a distinguishing number  
37 assigned to the licensee, the full legal name, date of birth, gender, address  
38 of principal residence and a brief description of the licensee, a colored  
39 digital photograph of the licensee, a facsimile of the signature of the  
40 licensee and the statement provided for in subsection (b). No driver's  
41 license shall be valid until it has been signed by the licensee. All drivers'  
42 licenses issued to persons under the age of 21 years shall be readily dis-  
43 tinguishable from licenses issued to persons age 21 years or older. In

1 addition, all drivers' licenses issued to persons under the age of 18 years  
2 shall also be readily distinguishable from licenses issued to persons age  
3 18 years or older. The secretary of revenue shall implement a vertical  
4 format to make drivers' licenses issued to persons under the age of 21  
5 more readily distinguishable. Except as otherwise provided, no driver's  
6 license issued by the division shall be valid until a colored digital photo-  
7 graph of such licensee has been taken and verified before being placed  
8 on the driver's license. The secretary of revenue shall prescribe a fee of  
9 not more than \$4 and upon payment of such fee the division shall cause  
10 a colored digital photograph of such applicant to be placed on the driver's  
11 license. Upon payment of such fee prescribed by the secretary of revenue,  
12 plus payment of the fee required by K.S.A. 8-246, and amendments  
13 thereto, for issuance of a new license, the division shall issue to such  
14 licensee a new license containing a colored digital photograph of such  
15 licensee. A driver's license which does not contain the principal address  
16 as required may be issued to persons who are program participants pur-  
17 suant to K.S.A. 2006 Supp. 75-455, and amendments thereto, upon pay-  
18 ment of the fee required by K.S.A. 8-246, and amendments thereto. All  
19 Kansas drivers' licenses and identification cards shall have physical se-  
20 curity features designed to prevent tampering, counterfeiting or dupli-  
21 cation of the document for fraudulent purposes. The secretary of revenue  
22 shall incorporate common machine-readable technology into all Kansas  
23 drivers' licenses and identification cards.

24 (b) All Kansas drivers' licenses issued to any person 16 years of age  
25 or older shall contain a form which provides a statement for making a gift  
26 of all or any part of the body of the licensee in accordance with the *revised*  
27 uniform anatomical gift act, *sections 1 through 24 of 2007 House Bill No.*  
28 *2010 and K.S.A. 65-3219, and amendments thereto*, except as otherwise  
29 provided by this subsection. The statement to be effective shall be signed  
30 by the licensee in the presence of two witnesses who shall sign the state-  
31 ment in the presence of the donor. The gift becomes effective upon the  
32 death of the donor. Delivery of the license during the donor's lifetime is  
33 not necessary to make a valid gift. Any valid gift statement executed prior  
34 to July 1, 1994, shall remain effective until invalidated. The word "Donor"  
35 shall be placed on the front of a licensee's driver's license, indicating that  
36 the statement for making an anatomical gift under this subsection has  
37 been executed by such licensee.

38 (c) Any person who is deaf or hard of hearing may request that the  
39 division issue to such person a driver's license which is readily distinguish-  
40 able from drivers' licenses issued to other drivers and upon such request  
41 the division shall issue such license. Drivers' licenses issued to persons  
42 who are deaf or hard of hearing and under the age of 21 years shall be  
43 readily distinguishable from drivers' licenses issued to persons who are

1 deaf or hard of hearing and 21 years of age or older. Upon satisfaction of  
2 subsection (a), the division shall issue a receipt of application permitting  
3 the operation of a vehicle consistent with the requested class, if there are  
4 no other restrictions or limitations, pending the division's verification of  
5 the information and production of a driver's license.

6 (d) A driver's license issued to a person required to be registered  
7 under K.S.A. 22-4901 et seq., and amendments thereto, shall be assigned  
8 a distinguishing number by the division which will readily indicate to law  
9 enforcement officers that such person is a registered offender. The di-  
10 vision shall develop a numbering system to implement the provisions of  
11 this subsection.

12 Sec. 4. K.S.A. 2006 Supp. 8-247, as amended by section 3 of 2007  
13 Substitute for House Bill No. 2042, is hereby amended to read as follows:  
14 8-247. (a) (1) All original licenses shall expire as follows:

15 (A) Licenses issued to persons who are at least 21 years of age, but  
16 less than 65 years of age shall expire on the sixth anniversary of the date  
17 of birth of the licensee which is nearest the date of application;

18 (B) licenses issued to persons who are 65 years of age or older shall  
19 expire on the fourth anniversary of the date of birth of the licensee which  
20 is nearest the date of application;

21 (C) any commercial drivers license shall expire on the fourth anni-  
22 versary of the date of birth of the licensee which is nearest the date of  
23 application;

24 (D) licenses issued to an offender, as defined in K.S.A. 22-4902, and  
25 amendments thereto, who is required to register pursuant to the Kansas  
26 offender registration act, K.S.A. 22-4901 et seq., and amendments  
27 thereto, shall expire every year on the date of birth of the licensee; or

28 (E) licenses issued to persons who are less than 21 years of age shall  
29 expire on the licensee's twenty-first birthday.

30 (2) All renewals under: (A) Paragraph (1) (A) shall expire on every  
31 sixth anniversary of the date of birth of the licensee; (B) paragraph (1)  
32 (B) and (C) shall expire on every fourth anniversary of the date of birth  
33 of the licensee; (C) paragraph (1)(D) shall expire every year on the date  
34 of birth of the licensee; and (D) paragraph (1) (E), if a renewal license is  
35 issued, shall expire on the licensee's twenty-first birthday. No driver's  
36 license shall expire in the same calendar year in which the original license  
37 or renewal license is issued, except that if the foregoing provisions of this  
38 section shall require the issuance of a renewal license or an original license  
39 for a period of less than six calendar months, the license issued to the  
40 applicant shall expire in accordance with the provisions of this subsection.

41 (b) If the driver's license of any person expires while such person is  
42 outside of the state of Kansas and on active duty in the armed forces of  
43 the United States, the license of such person shall be renewable, without

1 examination, at any time prior to the end of the sixth month following the  
2 discharge of such person from the armed forces, or within 90 days after  
3 reestablished residence within the state, whichever time is sooner. ~~If the~~  
4 ~~driver's license of any person expires while such person is outside the~~  
5 ~~United States, the division shall provide for renewal by mail.~~

6 (c) At least 30 days prior to the expiration of a person's license the  
7 division shall mail a notice of expiration or renewal application to such  
8 person at the address shown on the license. The division shall include  
9 with such notice: (1) A copy of the eyesight examination form; (2) a copy  
10 of the written examination prescribed by subsection (e); (3) a copy of the  
11 Kansas driver's manual, prepared pursuant to K.S.A. 8-266b, and amend-  
12 ments thereto; and (4) the written information required under subsection  
13 (g).

14 (d) (1) Except as provided in paragraph (2), every driver's license  
15 shall be renewable on or before its expiration upon application and pay-  
16 ment of the required fee and successful completion of the examinations  
17 required by subsection (e). Application for renewal of a valid driver's  
18 license shall be made to the division in accordance with rules and regu-  
19 lations adopted by the secretary of revenue. Such application shall contain  
20 all the requirements of subsection (b) of K.S.A. 8-240, and amendments  
21 thereto. Upon satisfying the foregoing requirements of this subsection,  
22 and if the division makes the findings required by K.S.A. 8-235b, and  
23 amendments thereto, for the issuance of an original license, the license  
24 shall be renewed without examination of the applicant's driving ability. If  
25 the division finds that any of the statements relating to revocation, sus-  
26 pension or refusal of licenses required under subsection (b) of K.S.A. 8-  
27 240, and amendments thereto, are in the affirmative, or if it finds that  
28 the license held by the applicant is not a valid one, or if the applicant has  
29 failed to make application for renewal of such person's license on or be-  
30 fore the expiration date thereof, the division may require the applicant  
31 to take an examination of ability to exercise ordinary and reasonable con-  
32 trol in the operation of a motor vehicle as provided in K.S.A. 8-235d, and  
33 amendments thereto.

34 (2) Any licensee, whose driver's license expires on their twenty-first  
35 birthday, shall have 45 days from the date of expiration of such license to  
36 make application to renew such licensee's license. Such license shall con-  
37 tinue to be valid for such 45 days or until such license is renewed, which-  
38 ever occurs sooner. A licensee who renews under the provisions of this  
39 paragraph shall not be required by the division to take an examination of  
40 ability to exercise ordinary and reasonable control in the operation of a  
41 motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

42 (e) (1) Prior to renewal of a driver's license, the applicant shall pass  
43 an examination of eyesight and a written examination of ability to read

1 and understand highway signs regulating, warning and directing traffic  
2 and knowledge of the traffic laws of this state. Such examination shall be  
3 equivalent to the tests required for an original driver's license under  
4 K.S.A. 8-235d, and amendments thereto. A driver's license examiner shall  
5 administer the examinations without charge and shall report the results  
6 of the examinations on a form provided by the division, which shall be  
7 submitted by the applicant to the division at the time such applicant  
8 applies for license renewal.

9 (2) In lieu of the examination of the applicant's eyesight by the ex-  
10 aminer, the applicant may submit a report on the examination of eyesight  
11 by a physician licensed to practice medicine and surgery or by a licensed  
12 optometrist. The report shall be based on an examination of the appli-  
13 cant's eyesight not more than three months prior to the date the report  
14 is submitted, and it shall be made on a form furnished the applicant with  
15 the notice of the expiration of license under subsection (c).

16 (3) In lieu of the driver's license examiner administering the written  
17 examination, the applicant may complete the examination furnished with  
18 the notice of the expiration of license under subsection (c) and submit  
19 the completed examination to the division.

20 (4) The division shall determine whether the results of the written  
21 examination and the eyesight reported are sufficient for renewal of the  
22 license and, if the results of either or both of the examinations are insuf-  
23 ficient, the division shall notify the applicant of such fact and return the  
24 license fee. In determining the sufficiency of an applicant's eyesight, the  
25 division may request an advisory opinion of the medical advisory board,  
26 which is hereby authorized to render such opinions.

27 (5) An applicant who is denied a license under this subsection (e)  
28 may reapply for renewal of such person's driver's license, except that if  
29 such application is not made within 90 days of the date the division sent  
30 notice to the applicant that the license would not be renewed, the appli-  
31 cant shall proceed as if applying for an original driver's license. If the  
32 applicant has been denied renewal of such person's driver's license be-  
33 cause such applicant failed to pass the written examination, the applicant  
34 shall pay an examination fee of \$1.50 to take the test again.

35 (6) When the division has good cause to believe that an applicant for  
36 renewal of a driver's license is incompetent or otherwise not qualified to  
37 operate a motor vehicle in accord with the public safety and welfare, the  
38 division may require such applicant to submit to such additional exami-  
39 nations as are necessary to determine that the applicant is qualified to  
40 receive the license applied for. Subject to paragraph (7) of this subsection,  
41 in so evaluating such qualifications, the division may request an advisory  
42 opinion of the medical advisory board which is hereby authorized to ren-  
43 der such opinions in addition to its duties prescribed by subsection (b) of

1 K.S.A. 8-255b, and amendments thereto. Any such applicant who is de-  
2 nied the renewal of such a driver's license because of a mental or physical  
3 disability shall be afforded a hearing in the manner prescribed by sub-  
4 section (c) of K.S.A. 8-255, and amendments thereto.

5 (7) Seizure disorders which are controlled shall not be considered a  
6 disability. In cases where such seizure disorders are not controlled, the  
7 director or the medical advisory board may recommend that such person  
8 be issued a driver's license to drive class C or M vehicles and restricted  
9 to operating such vehicles as the division determines to be appropriate  
10 to assure the safe operation of a motor vehicle by the licensee. Restricted  
11 licenses issued pursuant to this paragraph shall be subject to suspension  
12 or revocation. For the purpose of this paragraph, seizure disorders which  
13 are controlled means that the licensee has not sustained a seizure involv-  
14 ing a loss of consciousness in the waking state within six months preceding  
15 the application or renewal of a driver's license and whenever a person  
16 licensed to practice medicine and surgery makes a written report to the  
17 division stating that the licensee's seizures are controlled. The report shall  
18 be based on an examination of the applicant's medical condition not more  
19 than three months prior to the date the report is submitted. Such report  
20 shall be made on a form furnished to the applicant by the division. Any  
21 physician who makes such report shall not be liable for any damages  
22 which may be attributable to the issuance or renewal of a driver's license  
23 and subsequent operation of a motor vehicle by the licensee.

24 (f) If the driver's license of any person expires while such person is  
25 outside the state of Kansas, the license of such person shall be extended  
26 for a period not to exceed six months and shall be renewable, without a  
27 driving examination, at any time prior to the end of the sixth month fol-  
28 lowing the original expiration date of such license or within 10 days after  
29 such person returns to the state, whichever time is sooner. *This subsection*  
30 *(f) shall not apply to temporary drivers' licenses issued pursuant to sub-*  
31 *section (b)(3) of K.S.A. 8-240, and amendments thereto.*

32 (g) The division shall provide the following information in a person's  
33 notice of expiration or renewal under subsection (c):

34 (1) Written information explaining the person's right to make an an-  
35 atomical gift in accordance with K.S.A. 8-243, and amendments thereto,  
36 and the *revised* uniform anatomical gift act, *sections 1 through 24 of 2007*  
37 *House Bill No. 2010 and K.S.A. 65-3219, and amendments thereto;*

38 (2) written information describing the organ donation registry pro-  
39 gram maintained by the Kansas federally designated organ procurement  
40 organization. The written information required under this paragraph shall  
41 include, in a type, size and format that is conspicuous in relation to the  
42 surrounding material, the address and telephone number of Kansas' fed-  
43 erally designated organ procurement organization, along with an advisory



1 to call such designated organ procurement organization with questions  
2 about the organ donor registry program;

3 (3) written information giving the applicant the opportunity to be  
4 placed on the organ donation registry described in paragraph (2);

5 (4) inform the applicant in writing that, if the applicant indicates un-  
6 der this subsection a willingness to have such applicant's name placed on  
7 the organ donor registry described in paragraph (2), the division will for-  
8 ward the applicant's name, gender, date of birth and most recent address  
9 to the organ donation registry maintained by the Kansas federally desig-  
10 nated organ procurement organization, as required by paragraph (6);

11 (5) the division may fulfill the requirements of paragraph (4) by one  
12 or more of the following methods:

13 (A) Providing printed material enclosed with a mailed notice for  
14 driver's license renewal; or

15 (B) providing printed material to an applicant who personally appears  
16 at an examining station;

17 (6) if an applicant indicates a willingness under this subsection to have  
18 such applicant's name placed on the organ donor registry, the division  
19 shall within 10 days forward the applicant's name, gender, date of birth  
20 and most recent address to the organ donor registry maintained by the  
21 Kansas federally designated organ procurement organization. The divi-  
22 sion may forward information under this subsection by mail or by elec-  
23 tronic means. The division shall not maintain a record of the name or  
24 address of an individual who indicates a willingness to have such person's  
25 name placed on the organ donor registry after forwarding that informa-  
26 tion to the organ donor registry under this subsection. Information about  
27 an applicant's indication of a willingness to have such applicant's name  
28 placed on the organ donor registry that is obtained by the division and  
29 forwarded under this paragraph shall be confidential and not disclosed.

30 (h) Notwithstanding any other provisions of law, any offender under  
31 subsection (a)(1)(D) who held a valid driver's license on the effective date  
32 of this act may continue to operate motor vehicles until the next anni-  
33 versary of the date of birth of such offender. Upon such date such driver's  
34 license shall expire and the offender shall be subject to the provisions of  
35 this section.

36 Sec. 5. K.S.A. 2006 Supp. 8-1325, as amended by section 11 of 2007  
37 Senate Bill No. 9, is hereby amended to read as follows: 8-1325. (a) Every  
38 identification card shall expire, unless earlier canceled or subsection (c)  
39 of K.S.A. 2006 Supp. 8-1324, and amendments thereto, applies, on the  
40 sixth birthday of the applicant following the date of original issue, except  
41 as otherwise provided by K.S.A. 8-1329, and amendments thereto. Re-  
42 newal of any identification card shall be made for a term of six years and  
43 shall expire in a like manner as the originally issued identification card,

1 unless surrendered earlier or subsection (c) of K.S.A. 2006 Supp. 8-1324,  
2 and amendments thereto, applies. For any person who has been issued  
3 an identification card, the division shall mail a notice of expiration or  
4 renewal at least 30 days prior to the expiration of such person's identifi-  
5 cation card at the address shown on such identification card. The division  
6 shall include with such notice, written information required under sub-  
7 section (b). Any application for renewal received later than 90 days after  
8 expiration of the identification card shall be considered to be an appli-  
9 cation for an original identification card. The division shall require pay-  
10 ment of a fee of \$14 for each identification card renewal, except that  
11 persons who are 65 or more years of age or who are persons with a  
12 disability, as defined in K.S.A. 8-1,124, and amendments thereto, shall be  
13 required to pay a fee of only \$10.

14 (b) The division shall provide the following information under sub-  
15 section (a):

16 (1) Written information explaining the person's right to make an an-  
17 atomical gift in accordance with K.S.A. 8-1328, and amendments thereto,  
18 and the *revised* uniform anatomical gift act, *sections 1 through 24 of 2007*  
19 *House Bill No. 2010 and K.S.A. 65-3219, and amendments thereto*;

20 (2) written information describing the organ donation registry pro-  
21 gram maintained by the Kansas federally designated organ procurement  
22 organization. The written information required under this paragraph shall  
23 include, in a type, size and format that is conspicuous in relation to the  
24 surrounding material, the address and telephone number of Kansas' fed-  
25 erally designated organ procurement organization, along with an advisory  
26 to call such designated organ procurement organization with questions  
27 about the organ donor registry program;

28 (3) written information giving the applicant the opportunity to be  
29 placed on the organ donation registry described in paragraph (2);

30 (4) inform the applicant in writing that, if the applicant indicates un-  
31 der this subsection a willingness to have such applicant's name placed on  
32 the organ donor registry described in paragraph (2), the division will for-  
33 ward the applicant's name, gender, date of birth and most recent address  
34 to the organ donation registry maintained by the Kansas federally desig-  
35 nated organ procurement organization, as required by paragraph (6);

36 (5) the division may fulfill the requirements of paragraph (4) by one  
37 or more of the following methods:

38 (A) Providing printed material enclosed with a mailed notice for an  
39 identification card renewal; or

40 (B) providing printed material to an applicant who personally applies  
41 for an identification card;

42 (6) if an applicant indicates a willingness under this subsection to have  
43 such applicant's name placed on the organ donor registry described, the

1 division shall within 10 days forward the applicant's name, gender, date  
2 of birth and address to the organ donor registry maintained by the Kansas  
3 federally designated organ procurement organization. The division may  
4 forward information under this subsection by mail or by electronic means.  
5 The division shall not maintain a record of the name or address of an  
6 individual who indicates a willingness to have such person's name placed  
7 on the organ donor registry after forwarding that information to the organ  
8 donor registry under this subsection. Information about an applicant's  
9 indication of a willingness to have such applicant's name placed on the  
10 organ donor registry that is obtained by the division and forwarded under  
11 this paragraph shall be confidential and not disclosed.

12 Sec. 6. K.S.A. 2006 Supp. 8-2117 is hereby amended to read as fol-  
13 lows: 8-2117. (a) Subject to the provisions of this section, a court of com-  
14 petent jurisdiction may hear prosecutions of traffic offenses involving any  
15 child 14 or more years of age but less than 18 years of age. The court  
16 hearing the prosecution may impose any fine authorized by law for a  
17 traffic offense, including a violation of K.S.A. 8-1567 and amendments  
18 thereto, and may order that the child be placed in a juvenile detention  
19 facility, as defined by ~~K.S.A. 38-1602~~ K.S.A. 2006 Supp. 38-2302, and  
20 amendments thereto, for not more than 10 days. If the child is less than  
21 18 years of age, the child shall not be incarcerated in a jail as defined by  
22 ~~K.S.A. 38-1602~~ K.S.A. 2006 Supp. 38-2302, and amendments thereto. If  
23 the statute under which the child is convicted requires a revocation or  
24 suspension of driving privileges, the court shall revoke or suspend such  
25 privileges in accordance with that statute. Otherwise, the court may sus-  
26 pend the license of any person who is convicted of a traffic offense and  
27 who was under 18 years of age at the time of commission of the offense.  
28 Suspension of a license shall be for a period not exceeding one year, as  
29 ordered by the court. Upon suspending any license pursuant to this sec-  
30 tion, the court shall require that the license be surrendered to the court  
31 and shall transmit the license to the division of vehicles with a copy of  
32 the court order showing the time for which the license is suspended. The  
33 court may modify the time for which the license is suspended, in which  
34 case it shall notify the division of vehicles in writing of the modification.  
35 After the time period has passed for which the license is suspended, the  
36 division of vehicles shall issue an appropriate license to the person whose  
37 license had been suspended, upon successful completion of the exami-  
38 nation required by K.S.A. 8-241 and amendments thereto and upon  
39 proper application and payment of the required fee unless the child's  
40 driving privileges have been revoked, suspended or canceled for another  
41 cause and the revocation, suspension or cancellation has not expired.

42 (b) Instead of suspending a driver's license pursuant to this section,  
43 the court may place restrictions on the child's driver's privileges pursuant

1 to K.S.A. 8-292 and amendments thereto.

2 (c) Instead of the penalties provided in subsections (a) and (b), the  
3 court may place the child under a house arrest program, pursuant to  
4 K.S.A. 21-4603b, and amendments thereto, and sentence the child to the  
5 same sentence as an adult traffic offender under K.S.A. 8-2116, and  
6 amendments thereto.

7 (d) As used in this section, “traffic offense” means a violation of the  
8 uniform act regulating traffic on highways, a violation of articles 1 and 2  
9 of chapter 8 of the Kansas Statutes Annotated and a violation of K.S.A.  
10 40-3104, and amendments thereto. Traffic offenses shall include a vio-  
11 lation of a city ordinance or county resolution which prohibits acts which  
12 would constitute a violation of the uniform act regulating traffic on high-  
13 ways, a violation of articles 1 and 2 of chapter 8 of the Kansas Statutes  
14 Annotated, or a violation of K.S.A. 40-3104, and amendments thereto,  
15 and any violation of a city ordinance or county resolution which prohibits  
16 acts which are not violations of state laws and which relate to the regu-  
17 lation of traffic on the roads, highways or streets or the operation of self-  
18 propelled or nonself-propelled vehicles of any kind.

19 Sec. 7. K.S.A. 2006 Supp. 12-1773 is hereby amended to read as  
20 follows: 12-1773. (a) Any city which has adopted a redevelopment project  
21 plan in accordance with the provisions of this act may purchase or oth-  
22 erwise acquire real property in connection with such project plan. Upon  
23 a  $\frac{2}{3}$  vote of the members of the governing body thereof a city may acquire  
24 by condemnation any interest in real property, including a fee simple title  
25 thereto, which it deems necessary for or in connection with any project  
26 plan of an area located within the redevelopment district; *however, em-  
27 inent domain may be used only as authorized by K.S.A. 2006 Supp. 26-  
28 501b, and amendments thereto.* Prior to the exercise of such eminent  
29 domain power, the city shall offer to the owner of any property which  
30 will be subject to condemnation with respect to any redevelopment pro-  
31 ject, other than one which includes an auto race track facility or a special  
32 bond project, compensation in an amount equal to the highest appraised  
33 valuation amount determined for property tax purposes by the county  
34 appraiser for any of the three most recent years next preceding the year  
35 of condemnation, except that, if in the year next preceding the year of  
36 condemnation any such property had been damaged or destroyed by fire,  
37 flood, tornado, lightning, explosion or other catastrophic event, the  
38 amount offered should be equal to the appraised valuation of the property  
39 which would have been determined taking into account such damage or  
40 destruction unless such property has been restored, renovated or other-  
41 wise improved. However no city shall exercise such eminent domain  
42 power to acquire real property in a conservation area. Any such city may  
43 exercise the power of eminent domain in the manner provided by K.S.A.

1 26-501 et seq., and amendments thereto. In addition to the compensation  
2 or damage amount finally awarded thereunder with respect to any prop-  
3 erty subject to proceedings thereunder as a result of the construction of  
4 an auto race track facility or a special bond project, such city shall provide  
5 for the payment of an amount equal to 25% of such compensation or  
6 damage amount. In addition to any compensation or damages allowed  
7 under the eminent domain procedure act, such city shall also provide for  
8 the payment of relocation assistance as provided in K.S.A. 12-1777, and  
9 amendments thereto.

10 (b) Any real property acquired by a city under the provisions of this  
11 section may be sold, transferred or leased to a developer, in accordance  
12 with the redevelopment project plan and under such other conditions as  
13 may be agreed upon. Any real property sold, transferred or leased to a  
14 redevelopment project developer for a specific redevelopment project  
15 shall be sold, transferred or leased to such developer on the condition  
16 that such property shall be used only for that specific approved redevelop-  
17 opment project. If the developer does not utilize the entire tract of the  
18 real property sold, transferred or leased, that portion of property not used  
19 shall not be sold, transferred or leased by the developer to another de-  
20 veloper or party, but shall be deeded back to the city. If the developer  
21 paid the city for the land, a percentage of the original purchase price paid  
22 to the city which represents the percentage of the entire tract being  
23 deeded back to the city shall be reimbursed to the developer upon the  
24 deeding of the property back to the city.

25 (c) Any transfer by the redevelopment project developer of real prop-  
26 erty acquired pursuant to this section shall be valid only if approved by a  
27  $\frac{2}{3}$  majority vote of the members-elect of the governing body.

28 Sec. 8. On and after July 1, 2008, K.S.A. 2006 Supp. 16-1616, as  
29 amended by section 27 of 2007 Senate Bill No. 183, is hereby amended  
30 to read as follows: 16-1616. (a) In this section, "transferable record"  
31 means an electronic record that:

32 (1) Would be a note under article 3 of chapter 84 of the Kansas  
33 Statutes Annotated, and amendments thereto or a document under article  
34 7 of chapter 84 of the Kansas Statutes Annotated, and amendments  
35 thereto if the electronic record were in writing; and

36 (2) the issuer of the electronic record expressly has agreed is a trans-  
37 ferable record.

38 (b) A person has control of a transferable record if a system employed  
39 for evidencing the transfer of interests in the transferable record reliably  
40 establishes that person as the person to which the transferable record was  
41 issued or transferred.

42 (c) A system satisfies subsection (b), and a person is deemed to have  
43 control of a transferable record, if the transferable record is created,

1 stored and assigned in such a manner that:

2 (1) A single authoritative copy of the transferable record exists which  
3 is unique, identifiable, and, except as otherwise provided in paragraphs  
4 (4), (5) and (6), unalterable;

5 (2) the authoritative copy identifies the person asserting control as:

6 (A) The person to which the transferable record was issued; or

7 (B) if the authoritative copy indicates that the transferable record has  
8 been transferred, the person to which the transferable record was most  
9 recently transferred;

10 (3) the authoritative copy is communicated to and maintained by the  
11 person asserting control or its designated custodian;

12 (4) copies or revisions that add or change an identified assignee of  
13 the authoritative copy can be made only with the consent of the person  
14 asserting control;

15 (5) each copy of the authoritative copy and any copy of a copy is  
16 readily identifiable as a copy that is not the authoritative copy; and

17 (6) any revision of the authoritative copy is readily identifiable as au-  
18 thorized or unauthorized.

19 (d) Except as otherwise agreed, a person having control of a trans-  
20 ferable record is the holder, as defined in section 9(21) of 2007 Senate  
21 Bill No. 183, and amendments thereto, of the transferable record and has  
22 the same rights and defenses as a holder of an equivalent record or writing  
23 under the uniform commercial code, including, if the applicable statutory  
24 requirements under K.S.A. 84-3-302(a), ~~84-7-501~~, or 84-9-308, or section  
25 30 of 2007 Senate Bill No. 308, and amendments thereto, are satisfied,  
26 the rights and defenses of a holder in due course, a holder to which a  
27 negotiable document of title has been duly negotiated, or a purchaser,  
28 respectively. Delivery, possession, and indorsement are not required to  
29 obtain or exercise any of the rights under this subsection.

30 (e) Except as otherwise agreed, an obligor under a transferable rec-  
31 ord has the same rights and defenses as an equivalent obligor under equiv-  
32 alent records or writings under the uniform commercial code.

33 (f) If requested by a person against which enforcement is sought, the  
34 person seeking to enforce the transferable record shall provide reasonable  
35 proof that the person is in control of the transferable record. Proof may  
36 include access to the authoritative copy of the transferable record and  
37 related business records sufficient to review the terms of the transferable  
38 record and to establish the identity of the person having control of the  
39 transferable record.

40 Sec. 9. K.S.A. 2006 Supp. 19-101d, as amended by section 4 of 2007  
41 House Bill No. 2058, is hereby amended to read as follows: 19-101d. (a)

42 (1) The board of county commissioners of any county shall have the power  
43 to enforce all resolutions passed pursuant to county home rule powers,

1 as designated by K.S.A. 19-101c, and amendments thereto. Resolutions  
2 may be enforced by enjoining violations, by prescribing penalties for vi-  
3 olations by fine, by confinement in the county jail or by both fine and  
4 confinement. Unless otherwise provided by the resolution that defines  
5 and makes punishable the violation of such resolution, the penalty im-  
6 posed shall be in accordance with the penalties established by law for  
7 conviction of a class C misdemeanor. In no event shall the penalty im-  
8 posed for the violation of a resolution exceed the penalties established by  
9 law for conviction of a class B misdemeanor.

10 (2) Prosecution for any violation shall be commenced in the district  
11 court in the name of the county and, except as provided in subsection  
12 (b), shall be conducted in the manner provided by law for the prosecution  
13 of misdemeanor violations of state laws. Writs and process necessary for  
14 the prosecution of such violations shall be in the form prescribed by the  
15 judge or judges of the courts vested with jurisdiction of such violations  
16 by this act, and shall be substantially in the form of writs and process  
17 issued for the prosecution of misdemeanor violations of state laws. Each  
18 county shall provide all necessary supplies, forms and records at its own  
19 expense.

20 (b) (1) In addition to all other procedures authorized for the enforce-  
21 ment of county codes and resolutions, in Crawford, Douglas, Franklin,  
22 Jefferson, Johnson, *Leavenworth*, Miami, Riley, Sedgwick, Shawnee and  
23 Wyandotte counties, the prosecution for violation of codes and resolutions  
24 adopted by the board of county commissioners may be commenced in  
25 the district court in the name of the county and may be conducted, except  
26 as otherwise provided in this section, in the manner provided for and in  
27 accordance with the provisions of the code for the enforcement of county  
28 codes and resolutions.

29 (2) The board of county commissioners of any county which has not  
30 provided for the enforcement of county codes and resolutions in accord-  
31 ance with provisions of the code for enforcement of county codes and  
32 resolutions on or before July 1, 2007, and which desires to utilize the  
33 provisions of the code for enforcement of county codes and resolutions  
34 set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and  
35 amendments thereto, shall cause a notice of its intention to utilize the  
36 provisions of the code for enforcement of county codes and resolutions  
37 set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and  
38 amendments thereto, be published in the official newspaper of the  
39 county. If within 30 days next following the date of the publication of  
40 such notice a petition, signed by electors equal in number to not less than  
41 5% of the electors of the county, requesting an election thereon, shall be  
42 filed in the office of the county election officer, no utilization of the  
43 provisions of the code for enforcement of county codes and resolutions

1 set forth in article 47 of chapter 19 of the Kansas Statutes Annotated, and  
2 amendments thereto, may be made without such proposition having first  
3 been submitted to and having been approved by a majority of the electors  
4 of the county voting at an election called and held thereon. Any election  
5 shall be called, noticed and held in the manner provided by K.S.A. 10-  
6 120, and amendments thereto.

7 (3) For the purposes of aiding in the enforcement of county codes  
8 and resolutions, the board of county commissioners may employ or ap-  
9 point code enforcement officers for the county who shall have power to  
10 sign, issue and execute notices to appear and uniform citations or uniform  
11 complaints and notices to appear, as provided in the appendix of forms  
12 of the code contained in this act to enforce violations of county codes and  
13 resolutions, but shall have no power to issue warrants or make arrests.  
14 All warrants shall be issued and arrests made by law enforcement officers  
15 pursuant to and in the manner provided in chapter 21 of the Kansas  
16 Statutes Annotated.

17 (4) The board of county commissioners may employ or appoint at-  
18 torneys for the purpose of prosecuting actions for the enforcement of  
19 county codes and resolutions. The attorneys shall have the duties, powers  
20 and authorities provided by the board that are necessary to prosecute  
21 actions under the code.

22 (5) All costs for the enforcement and prosecution of violations of  
23 county codes and resolutions, except for compensation and expenses of  
24 the district court judge, shall be paid from the revenues of the county.  
25 The board of county commissioners may establish a special law enforce-  
26 ment fund for the purpose of paying for the costs of code enforcement  
27 within the county.

28 (c) Notwithstanding the provisions of subsection (b), any action com-  
29 menced in the district court for the enforcement of county codes and  
30 resolutions, in which a person may be subject to detention or arrest or in  
31 which an accused person, if found guilty, would or might be deprived of  
32 the person's liberty, shall be conducted in the manner provided by law  
33 for the prosecution of misdemeanor violations of state laws under the  
34 Kansas code of criminal procedure and not under the code for the en-  
35 forcement of county codes and resolutions.

36 Sec. 10. K.S.A. 2006 Supp. 20-302b is hereby amended to read as  
37 follows: 20-302b. (a) A district magistrate judge shall have the jurisdiction  
38 and power, in any case in which a violation of the laws of the state is  
39 charged, to conduct the trial of traffic infractions, cigarette or tobacco  
40 infractions or misdemeanor charges, to conduct the preliminary exami-  
41 nation of felony charges and to hear felony arraignments subject to as-  
42 signment pursuant to K.S.A. 20-329 and amendments thereto. Except as  
43 otherwise provided, in civil cases, a district magistrate judge shall have



1 jurisdiction over actions filed under the code of civil procedure for limited  
2 actions, K.S.A. 61-2801 et seq., and amendments thereto, and concurrent  
3 jurisdiction, powers and duties with a district judge. Except as otherwise  
4 specifically provided in subsection (b), a district magistrate judge shall  
5 not have jurisdiction or cognizance over the following actions:

6 (1) Any action, other than an action seeking judgment for an unse-  
7 cured debt not sounding in tort and arising out of a contract for the  
8 provision of goods, services or money, in which the amount in contro-  
9 versy, exclusive of interests and costs, exceeds \$10,000. The provisions of  
10 this subsection shall not apply to actions filed under the code of civil  
11 procedure for limited actions, K.S.A. 61-2801 et seq. and amendments  
12 thereto. In actions of replevin, the affidavit in replevin or the verified  
13 petition fixing the value of the property shall govern the jurisdiction.  
14 Nothing in this paragraph shall be construed as limiting the power of a  
15 district magistrate judge to hear any action pursuant to the Kansas probate  
16 code or to issue support orders as provided by paragraph (6) of this  
17 subsection;

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

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

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

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

32 (6) actions for divorce, separate maintenance or custody of minor  
33 children. Nothing in this paragraph shall be construed as limiting the  
34 power of a district magistrate judge to: (A) Except as provided in subsec-  
35 tion (e), hear any action pursuant to the Kansas code for care of children  
36 or the revised Kansas juvenile justice code; (B) establish, modify or en-  
37 force orders of support, including, but not limited to, orders of support  
38 pursuant to the Kansas parentage act, K.S.A. 23-9,101 et seq., 39-718b,  
39 39-755 or 60-1610 or K.S.A. 23-4,105 through 23-4,118, 23-4,125 through  
40 23-4,137, ~~38-1542, 38-1543 or 38-1563~~ or *K.S.A. 2006 Supp. 38-2338, 38-*  
41 *2339 or 38-2350*, and amendments thereto; or (C) enforce orders granting  
42 visitation rights or parenting time;

43 (7) habeas corpus;

1 (8) receiverships;  
2 (9) change of name;  
3 (10) declaratory judgments;  
4 (11) mandamus and quo warranto;  
5 (12) injunctions;  
6 (13) class actions;  
7 (14) rights of majority; and  
8 (15) actions pursuant to K.S.A. 59-29a01 et seq. and amendments  
9 thereto.

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

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

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

17 (3) make any order authorized by K.S.A. 60-1607 and amendments  
18 thereto.

19 (c) In accordance with the limitations and procedures prescribed by  
20 law, and subject to any rules of the supreme court relating thereto, any  
21 appeal permitted to be taken from an order or final decision of a district  
22 magistrate judge shall be tried and determined *de novo* by a district judge,  
23 except that in civil cases where a record was made of the action or pro-  
24 ceeding before the district magistrate judge, the appeal shall be tried and  
25 determined on the record by a district judge.

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

29 (e) Upon motion of a party for a petition or motion filed under the  
30 Kansas code for care of children requesting termination of parental rights  
31 pursuant to ~~K.S.A. 38-1581 through 38-1587~~ K.S.A. 2006 Supp. 38-2361  
32 through 38-2367, and amendments thereto, the chief judge shall reassign  
33 such action from a district magistrate judge to a district judge.

34 Sec. 11. K.S.A. 2006 Supp. 21-3413 is hereby amended to read as  
35 follows: 21-3413. (a) Battery against a law enforcement officer is:

36 (1) Battery, as defined in subsection (a)(2) of K.S.A. 21-3412, and  
37 amendments thereto, committed against: (A) A uniformed or properly  
38 identified university or campus police officer while such officer is engaged  
39 in the performance of such officer's duty; or (B) a uniformed or properly  
40 identified state, county or city law enforcement officer, other than a state  
41 correctional officer or employee, a city or county correctional officer or  
42 employee, a juvenile correctional facility officer or employee or a juvenile  
43 detention facility officer or employee, while such officer is engaged in the

1 performance of such officer's duty; or  
2 (2) battery, as defined in subsection (a)(1) of K.S.A. 21-3412, and  
3 amendments thereto, committed against: (A) A uniformed or properly  
4 identified university or campus police officer while such officer is engaged  
5 in the performance of such officer's duty; or (B) a uniformed or properly  
6 identified state, county or city law enforcement officer, other than a state  
7 correctional officer or employee, a city or county correctional officer or  
8 employee, a juvenile correctional facility officer or employee or a juvenile  
9 detention facility officer or employee, while such officer is engaged in the  
10 performance of such officer's duty; or  
11 (3) battery, as defined in K.S.A. 21-3412, and amendments thereto,  
12 committed against: (A) A state correctional officer or employee by a per-  
13 son in custody of the secretary of corrections, while such officer or em-  
14 ployee is engaged in the performance of such officer's or employee's duty;  
15 (B) committed against a juvenile correctional facility officer or em-  
16 ployee by a person confined in such juvenile correctional facility, while  
17 such officer or employee is engaged in the performance of such officer's  
18 or employee's duty;  
19 (C) committed against a juvenile detention facility officer or em-  
20 ployee by a person confined in such juvenile detention facility, while such  
21 officer or employee is engaged in the performance of such officer's or  
22 employee's duty; *or*  
23 (D) committed against a city or county correctional officer or em-  
24 ployee by a person confined in a city holding facility or county jail facility,  
25 while such officer or employee is engaged in the performance of such  
26 officer's or employee's duty.  
27 (b) Battery against a law enforcement officer as defined in subsection  
28 (a)(1) is a class A person misdemeanor. Battery against a law enforcement  
29 officer as defined in subsection (a)(2) is a severity level 7, person felony.  
30 Battery against a law enforcement officer as defined in subsection (a)(3)  
31 is a severity level 5, person felony.  
32 (c) As used in this section:  
33 (1) "Correctional institution" means any institution or facility under  
34 the supervision and control of the secretary of corrections.  
35 (2) "State correctional officer or employee" means any officer or em-  
36 ployee of the Kansas department of corrections or any independent con-  
37 tractor, or any employee of such contractor, working at a correctional  
38 institution.  
39 (3) "Juvenile correctional facility officer or employee" means any of-  
40 ficer or employee of the juvenile justice authority or any independent  
41 contractor, or any employee of such contractor, working at a juvenile  
42 correctional facility, as defined in ~~K.S.A. 38-1602~~ *K.S.A. 2006 Supp. 38-*  
43 *2302*, and amendments thereto.

1 (4) “Juvenile detention facility officer or employee” means any officer  
2 or employee of a juvenile detention facility as defined in ~~K.S.A. 38-1602~~  
3 *K.S.A. 2006 Supp. 38-2302*, and amendments thereto.

4 (5) “City or county correctional officer or employee” means any cor-  
5 rectional officer or employee of the city or county or any independent  
6 contractor, or any employee of such contractor, working at a city holding  
7 facility or county jail facility.

8 Sec. 12. K.S.A. 2006 Supp. 21-3612 is hereby amended to read as  
9 follows: 21-3612. (a) Contributing to a child’s misconduct or deprivation  
10 is:

11 (1) Causing or encouraging a child under 18 years of age to become  
12 or remain a child in need of care as defined by the *revised* Kansas code  
13 for care of children;

14 (2) causing or encouraging a child under 18 years of age to commit  
15 a traffic infraction or an act which, if committed by an adult, would be a  
16 misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection  
17 (j) of K.S.A. 74-8810 and amendments thereto;

18 (3) failure to reveal, upon inquiry by a uniformed or properly iden-  
19 tified law enforcement officer engaged in the performance of such offi-  
20 cer’s duty, any information one has regarding a runaway, with intent to  
21 aid the runaway in avoiding detection or apprehension;

22 (4) sheltering or concealing a runaway with intent to aid the runaway  
23 in avoiding detection or apprehension by law enforcement officers;

24 (5) causing or encouraging a child under 18 years of age to commit  
25 an act which, if committed by an adult, would be a felony; or

26 (6) causing or encouraging a child to violate the terms or conditions  
27 of the child’s probation or conditional release pursuant to subsection  
28 (a)(1) of K.S.A. 2006 Supp. 38-2361, and amendments thereto.

29 Contributing to a child’s misconduct or deprivation as described in  
30 subsection (a)(1), (2), (3) or (6) is a class A nonperson misdemeanor.  
31 Contributing to a child’s misconduct or deprivation as described in sub-  
32 section (a)(4) is a severity level 8, person felony. Contributing to a child’s  
33 misconduct or deprivation as described in subsection (a)(5) is a severity  
34 level 7, person felony.

35 (b) A person may be found guilty of contributing to a child’s miscon-  
36 duct or deprivation even though no prosecution of the child whose mis-  
37 conduct or deprivation the defendant caused or encouraged has been  
38 commenced pursuant to the *revised* Kansas code for care of children,  
39 revised Kansas juvenile justice code or Kansas criminal code.

40 (c) As used in this section, “runaway” means a child under 18 years  
41 of age who is willfully and voluntarily absent from:

42 (1) The child’s home without the consent of the child’s parent or  
43 other custodian; or

1 (2) a court ordered or designated placement, or a placement pursuant  
2 to court order, if the absence is without the consent of the person with  
3 whom the child is placed or, if the child is placed in a facility, without  
4 the consent of the person in charge of such facility or such person's  
5 designee.

6 (d) This section shall be part of and supplemental to the Kansas crim-  
7 inal code.

8 Sec. 13. K.S.A. 2006 Supp. 21-4714 is hereby amended to read as  
9 follows: 21-4714. (a) The court shall order the preparation of the pre-  
10 sentence investigation report by the court services officer as soon as pos-  
11 sible after conviction of the defendant.

12 (b) Each presentence report prepared for an offender to be sen-  
13 tenced for one or more felonies committed on or after July 1, 1993, shall  
14 be limited to the following information:

15 (1) A summary of the factual circumstances of the crime or crimes  
16 of conviction.

17 (2) If the defendant desires to do so, a summary of the defendant's  
18 version of the crime.

19 (3) When there is an identifiable victim, a victim report. The person  
20 preparing the victim report shall submit the report to the victim and  
21 request that the information be returned to be submitted as a part of the  
22 presentence investigation. To the extent possible, the report shall include  
23 a complete listing of restitution for damages suffered by the victim.

24 (4) An appropriate classification of each crime of conviction on the  
25 crime severity scale.

26 (5) A listing of prior adult convictions or juvenile adjudications for  
27 felony or misdemeanor crimes or violations of county resolutions or city  
28 ordinances comparable to any misdemeanor defined by state law. Such  
29 listing shall include an assessment of the appropriate classification of the  
30 criminal history on the criminal history scale and the source of informa-  
31 tion regarding each listed prior conviction and any available source of  
32 journal entries or other documents through which the listed convictions  
33 may be verified. If any such journal entries or other documents are ob-  
34 tained by the court services officer, they shall be attached to the pre-  
35 sentence investigation report. Any prior criminal history worksheets of  
36 the defendant shall also be attached.

37 (6) A proposed grid block classification for each crime, or crimes of  
38 conviction and the presumptive sentence for each crime, or crimes of  
39 conviction.

40 (7) If the proposed grid block classification is a grid block which pre-  
41 sumes imprisonment, the presumptive prison term range and the pre-  
42 sumptive duration of postprison supervision as it relates to the crime  
43 severity scale.

1 (8) If the proposed grid block classification does not presume prison,  
2 the presumptive prison term range and the presumptive duration of the  
3 nonprison sanction as it relates to the crime severity scale and the court  
4 services officer's professional assessment as to recommendations for con-  
5 ditions to be mandated as part of the nonprison sanction.

6 (9) For defendants who are being sentenced for a conviction of a  
7 felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto,  
8 and meet the requirements of K.S.A. 2006 Supp. 21-4729, and amend-  
9 ments thereto, the drug ~~and alcohol~~ *abuse* assessment as provided in  
10 K.S.A. 2006 Supp. 21-4729, and amendments thereto.

11 (c) The presentence report will become part of the court record and  
12 shall be accessible to the public, except that the official version, defend-  
13 ant's version and the victim's statement, any psychological reports, risk  
14 and needs assessments and drug and alcohol reports and assessments shall  
15 be accessible only to the parties, the sentencing judge, the department  
16 of corrections, and if requested, the Kansas sentencing commission. If  
17 the offender is committed to the custody of the secretary of corrections,  
18 the report shall be sent to the secretary and, in accordance with K.S.A.  
19 75-5220 and amendments thereto to the warden of the state correctional  
20 institution to which the defendant is conveyed.

21 (d) The criminal history worksheet will not substitute as a present-  
22 ence report.

23 (e) The presentence report will not include optional report compo-  
24 nents, which would be subject to the discretion of the sentencing court  
25 in each district except for psychological reports and drug and alcohol  
26 reports.

27 (f) The court can take judicial notice in a subsequent felony proceed-  
28 ing of an earlier presentence report criminal history worksheet prepared  
29 for a prior sentencing of the defendant for a felony committed on or after  
30 July 1, 1993.

31 (g) All presentence reports in any case in which the defendant has  
32 been convicted of a felony shall be on a form approved by the Kansas  
33 sentencing commission.

34 Sec. 14. K.S.A. 2006 Supp. 22-2401a, as amended by section 1 of  
35 2007 Senate Bill No. 13, is hereby amended to read as follows: 22-2401a.

36 (1) Law enforcement officers employed by consolidated county law en-  
37 forcement agencies or departments and sheriffs and their deputies may  
38 exercise their powers as law enforcement officers:

39 (a) Anywhere within their county; and

40 (b) in any other place when a request for assistance has been made  
41 by law enforcement officers from that place or when in fresh pursuit of  
42 a person.

43 (2) Law enforcement officers employed by any city may exercise their

1 powers as law enforcement officers:

2 (a) Anywhere within the city limits of the city employing them and  
3 outside of such city when on property owned or under the control of such  
4 city; and

5 (b) in any other place when a request for assistance has been made  
6 by law enforcement officers from that place or when in fresh pursuit of  
7 a person.

8 (3) (a) Law enforcement officers employed by a Native American  
9 Indian Tribe may exercise powers of law enforcement officers anywhere  
10 within the exterior limits of the reservation of the tribe employing such  
11 tribal law enforcement officer, subject to the following:

12 (i) The provisions of subsection (3)(a) shall be applicable only as long  
13 as such Native American Indian Tribe maintains in force a valid and  
14 binding agreement with an insurance carrier to provide liability insurance  
15 coverage for damages arising from the acts, errors or omissions of such  
16 tribal law enforcement agency or officer while acting pursuant to this  
17 section and waives its tribal immunity, as provided in paragraph (b) of  
18 subsection (3), for any liability for damages arising from the acts, ~~error~~  
19 *errors* or omissions of such tribal law enforcement agency or officer while  
20 acting pursuant to this section. Such insurance policy shall: (A) (1) Be in  
21 an amount not less than \$500,000 for any one person and \$2,000,000 for  
22 any one occurrence for personal injury and \$1,000,000 for any one oc-  
23 currence for property damage; (2) be in an amount not less than  
24 \$2,000,000 aggregate loss limit; and (3) carry an endorsement to provide  
25 coverage for mutual aid assistance; and (B) include an endorsement pro-  
26 viding that the insurer may not invoke tribal sovereign immunity up to  
27 the limits of the policy set forth herein. Any insurance carrier providing  
28 to a tribe the liability insurance coverage described in this subsection shall  
29 certify to the attorney general that the tribe has in effect coverage which  
30 complies with the requirements of this subsection. Such carrier shall no-  
31 tify the attorney general immediately by first class mail if for any reason  
32 such coverage terminates or no longer complies with the requirements  
33 of this subsection.

34 (ii) The provisions of subsection (3)(a) shall be applicable only if such  
35 Native American Indian Tribe has filed with the county clerk a map  
36 clearly showing the boundaries of the Tribe's reservation as defined in  
37 this section.

38 (b) If a claim is brought against any tribal law enforcement agency or  
39 officer for acts committed by such agency or officer while acting pursuant  
40 to this section, such claim shall be subject to disposition as if the tribe  
41 was the state pursuant to the Kansas tort claims act, provided that such  
42 act shall not govern the tribe's purchase of insurance. The tribe shall waive  
43 its sovereign immunity solely to the extent necessary to permit recovery

- 1 under the liability insurance, but not to exceed the policy limits.
- 2 (c) Nothing in this subsection (3) shall be construed to prohibit any  
3 agreement between any state, county or city law enforcement agency and  
4 any Native American Indian Tribe.
- 5 (d) Nothing in this subsection (3) shall be construed to affect the  
6 provision of law enforcement services outside the exterior boundaries of  
7 reservations so as to affect in any way the criteria by which the United  
8 States department of the interior makes a determination regarding place-  
9 ment of land into trust.
- 10 (e) Neither the state nor any political subdivision of the state shall be  
11 liable for any act or failure to act by any tribal law enforcement officer.
- 12 (4) University police officers employed by the chief executive officer  
13 of any state educational institution or municipal university may exercise  
14 their powers as university police officers anywhere:
- 15 (a) On property owned or operated by the state educational institu-  
16 tion or municipal university, by a board of trustees of the state educational  
17 institution, an endowment association, an athletic association, a fraternity,  
18 sorority or other student group associated with the state educational in-  
19 stitution or municipal university;
- 20 (b) on the streets, property and highways immediately adjacent to the  
21 campus of the state educational institution or municipal university;
- 22 (c) within the city where such property as described in this subsection  
23 is located, as necessary to protect the health, safety and welfare of stu-  
24 dents and faculty of the state educational institution or municipal univer-  
25 sity, with appropriate agreement by the local law enforcement agencies.  
26 Such agreements shall include provisions defining the geographical scope  
27 of the jurisdiction conferred, circumstances requiring the extended juris-  
28 diction, scope of law enforcement powers and duration of the agreement.  
29 Any agreement entered into pursuant to this provision shall be approved  
30 by the governing body of the city or county, or both, having jurisdiction  
31 where such property is located, and the chief executive officer of the state  
32 educational institution or municipal university involved before such  
33 agreement may take effect; and
- 34 (d) additionally, when there is reason to believe that a violation of a  
35 state law, a county resolution, or a city ordinance has occurred on property  
36 described in subsection (4)(a) or (b), such officers with appropriate no-  
37 tification of, and coordination with, local law enforcement agencies or  
38 departments, may investigate and arrest persons for such a violation an-  
39 ywhere within the city where such property, streets and highways are  
40 located. Such officers also may exercise such powers in any other place  
41 when in fresh pursuit of a person. University police officers shall also have  
42 authority to transport persons in custody to an appropriate facility, wher-  
43 ever it may be located. University police officers at the university of Kan-



1 sas medical center may provide emergency transportation of medical sup-  
2 plies and transplant organs.

3 (5) In addition to the areas where law enforcement officers may ex-  
4 ercise their powers pursuant to subsection (2), law enforcement officers  
5 of any jurisdiction within Johnson or Sedgwick county may exercise their  
6 powers as law enforcement officers in any area within the respective  
7 county when executing a valid arrest warrant or search warrant, to the  
8 extent necessary to execute such warrants.

9 (6) In addition to the areas where university police officers may ex-  
10 ercise their powers pursuant to subsection (4), university police officers  
11 may exercise the powers of law enforcement officers in any area outside  
12 their normal jurisdiction when a request for assistance has been made by  
13 law enforcement officers from the area for which assistance is requested.

14 (7) In addition to the areas where law enforcement officers may ex-  
15 ercise their powers pursuant to subsection (2), law enforcement officers  
16 of any jurisdiction within Johnson county may exercise their powers as  
17 law enforcement officers in any adjoining city within Johnson county  
18 when any crime, including a traffic infraction, has been or is being com-  
19 mitted by a person in view of the law enforcement officer. A law enforce-  
20 ment officer shall be considered to be exercising such officer's powers  
21 pursuant to subsection (2), when such officer is responding to the scene  
22 of a crime, even if such officer exits the city limits of the city employing  
23 the officer and further reenters the city limits of the city employing the  
24 officer to respond to such scene.

25 (8) Campus police officers employed by a community college or  
26 school district may exercise the power and authority of law enforcement  
27 officers anywhere:

28 (a) On property owned, occupied or operated by the school district  
29 or community college or at the site of a function sponsored by the school  
30 district or community college;

31 (b) on the streets, property and highways immediately adjacent to  
32 and coterminous with property described in subsection (8)(a);

33 (c) within the city or county where property described in subsection  
34 (8)(a) is located, as necessary to protect the health, safety and welfare of  
35 students and faculty of the school district or community college, with  
36 appropriate agreement by local law enforcement agencies. Such agree-  
37 ments shall include provisions, defining the geographical scope of the  
38 jurisdiction conferred, circumstances requiring the extended jurisdiction,  
39 scope of law enforcement powers and duration of the agreement. Before  
40 any agreement entered into pursuant to this section shall take effect, it  
41 shall be approved by the governing body of the city or county, or both,  
42 having jurisdiction where such property is located, and the board of ed-  
43 ucation or board of trustees involved;

1 (d) with appropriate notification of and coordination with local law  
 2 enforcement agencies, within the city or county where property described  
 3 in subsection (8)(a) or (8)(b) is located, when there is reason to believe  
 4 that a violation of a state law, county resolution or city ordinance has  
 5 occurred on such property, as necessary to investigate and arrest persons  
 6 for such a violation;

7 (e) when in fresh pursuit of a person; and

8 (f) when transporting persons in custody to an appropriate facility,  
 9 wherever it may be located.

10 (9) TAG law enforcement officers employed by the adjutant general  
 11 may exercise their powers as police officers anywhere:

12 (a) On property owned or under the control of the Kansas national  
 13 guard or any component under the command of the adjutant general;

14 (b) on the streets, property and highways immediately adjacent to  
 15 property owned or under the control of the Kansas national guard; within  
 16 the city or county where such property as described in subsection (9)(a)  
 17 or (b) is located, as necessary to protect such property; or to protect the  
 18 health, safety and welfare of members of the national guard, reserve or  
 19 employees of the United States department of defense, the United States  
 20 department of homeland security or any branch of the United States mil-  
 21 itary with appropriate agreement by the local law enforcement agencies.  
 22 Such agreements shall include provisions defining the geographical scope  
 23 of the jurisdiction conferred, circumstances requiring the extended juris-  
 24 diction, scope of law enforcement powers and duration of the agreement.  
 25 Any agreement entered into pursuant to this provision shall be approved  
 26 by the governing body of the city or county, or both, having jurisdiction  
 27 where such property is located, and the adjutant general before such  
 28 agreement may take effect. In addition, when there is reason to believe  
 29 that a violation of a state law, a county resolution or a city ordinance has  
 30 occurred on property described in subsection (9)(a) or (b), after providing  
 31 appropriate notification to, and coordination with, local law enforcement  
 32 agencies or departments, such officers may investigate and arrest persons  
 33 for such a violation anywhere within the city or county where such prop-  
 34 erty, streets and highways are located. Such officers also may exercise  
 35 such powers in any other place when in fresh pursuit of a person. TAG  
 36 law enforcement officers shall also have authority to transport persons in  
 37 custody to an appropriate facility, wherever it may be located.

38 ~~(10)~~ (10) As used in this section:

39 (a) “Law enforcement officer” means: (1) Any law enforcement of-  
 40 ficer as defined in K.S.A. 22-2202, and amendments thereto; or (2) any  
 41 tribal law enforcement officer who is employed by a Native American  
 42 Indian Tribe and has completed successfully the initial and any subse-  
 43 quent law enforcement training required under the Kansas law enforce-

1 ment training act.

2 (b) “University police officer” means a police officer employed by the  
3 chief executive officer of: (1) Any state educational institution under the  
4 control and supervision of the state board of regents; or (2) a municipal  
5 university.

6 (c) “Campus police officer” means a school security officer desig-  
7 nated as a campus police officer pursuant to K.S.A. 72-8222, and amend-  
8 ments thereto.

9 (d) “Fresh pursuit” means pursuit, without unnecessary delay, of a  
10 person who has committed a crime, or who is reasonably suspected of  
11 having committed a crime.

12 (e) “Native American Indian Tribe” means the Prairie Band Pota-  
13 watomoni Nation, Kickapoo Tribe in Kansas, Sac and Fox Nation of Missouri  
14 and the Iowa Tribe of Kansas and Nebraska.

15 (f) “Reservation” means:

16 (i) With respect to the Iowa Tribe of Kansas and Nebraska, the res-  
17 ervation established by treaties with the United States concluded May 17,  
18 1854, and March 6, 1861;

19 (ii) with respect to the Kickapoo Nation, the reservation established  
20 by treaty with the United States concluded June 28, 1862;

21 (iii) with respect to the Prairie Band Potawatomi Nation in Kansas,  
22 the reservation established by treaties with the United States concluded  
23 June 5, 1846, November 15, 1861, and February 27, 1867; and

24 (iv) with respect to the Sac and Fox Nation of Missouri in Kansas and  
25 Nebraska: (A) the reservation established by treaties with the United  
26 States concluded May 18, 1854, and March 6, 1861, and by acts of Con-  
27 gress of June 10, 1872 (17 Stat. 391), and August 15, 1876 (19 Stat. 208),  
28 and (B) the premises of the gaming facility established pursuant to the  
29 gaming compact entered into between such nation and the state of Kan-  
30 sas, and the surrounding parcel of land held in trust which lies adjacent  
31 to and east of U.S. Highway 75 and adjacent to and north of Kansas  
32 Highway 20, as identified in such compact.

33 (g) “TAG law enforcement officer” means a police officer employed  
34 by the adjutant general pursuant to K.S.A. 48-204 and amendments  
35 thereto.

36 Sec. 15. K.S.A. 2006 Supp. 28-170 is hereby amended to read as  
37 follows: 28-170. (a) The docket fee prescribed by K.S.A. 60-2001 and  
38 amendments thereto and the fees for service of process, shall be the only  
39 costs assessed for services of the clerk of the district court and the sheriff  
40 in any case filed under chapter 60 or chapter 61 of the Kansas Statutes  
41 Annotated, and amendments thereto, except that no fee shall be charged  
42 for an action filed under K.S.A. 60-3101 et seq., and under K.S.A. 60-  
43 31a01 et seq., and amendments thereto. For services in other matters in

1 which no other fee is prescribed by statute, the following fees shall be  
2 charged and collected by the clerk. Only one fee shall be charged for each  
3 bond, lien or judgment:

- 4 1. For filing, entering and releasing a bond, mechanic's lien, notice of  
5 intent to perform, personal property tax judgment or any judgment  
6 on which execution process cannot be issued..... \$5
- 7 2. For filing, entering and releasing a judgment of a court of this state  
8 on which execution or other process can be issued ..... \$15
- 9 3. For a certificate, or for copying or certifying any paper or writ, such  
10 fee as shall be prescribed by the district court.

11 (b) The fees for entries, certificates and other papers required in  
12 naturalization cases shall be those prescribed by the federal government  
13 and, when collected, shall be disbursed as prescribed by the federal gov-  
14 ernment. The clerk of the court shall remit to the state treasurer at least  
15 monthly all moneys received from fees prescribed by subsection (a) or  
16 (b) or received for any services performed which may be required by law.  
17 The state treasurer shall deposit the remittance in the state treasury and  
18 credit the entire amount to the state general fund.

19 (c) In actions pursuant to the *revised* Kansas code for care of children  
20 (K.S.A. ~~38-1501~~ 2006 *Supp.* 38-2201 et seq. and amendments thereto),  
21 the *revised* Kansas juvenile justice code (K.S.A. ~~38-1601~~ 2006 *Supp.* 38-  
22 2301 et seq. and amendments thereto), the act for treatment of alcoholism  
23 (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment  
24 of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the  
25 care and treatment act for mentally ill persons (K.S.A. 59-2945 et seq.  
26 and amendments thereto), the clerk shall charge an additional fee of \$1  
27 which shall be deducted from the docket fee and credited to the prose-  
28 cuting attorneys' training fund as provided in K.S.A. 28-170a and amend-  
29 ments thereto.

30 (d) In actions pursuant to the *revised* Kansas code for care of children  
31 (K.S.A. ~~38-1501~~ 2006 *Supp.* 38-2201 et seq. and amendments thereto),  
32 the *revised* Kansas juvenile justice code (K.S.A. ~~38-1601~~ 2006 *Supp.* 38-  
33 2301 et seq. and amendments thereto), the act for treatment of alcoholism  
34 (K.S.A. 65-4001 et seq. and amendments thereto), the act for treatment  
35 of drug abuse (K.S.A. 65-5201 et seq. and amendments thereto) or the  
36 care and treatment act for mentally ill persons (K.S.A. 59-2945 et seq.  
37 and amendments thereto), the clerk shall charge an additional fee of \$.50  
38 which shall be deducted from the docket fee and credited to the indigents'  
39 defense services fund as provided in K.S.A. 28-172b and amendments  
40 thereto.

41 (e) The bond, lien or judgment fee established in subsection (a) shall  
42 be the only fee collected or moneys in the nature of a fee collected for  
43 such bond, lien or judgment. Such fee shall only be established by an act

1 of the legislature and no other authority is established by law or otherwise  
2 to collect a fee.

3 Sec. 16. K.S.A. 2006 Supp. 28-170a is hereby amended to read as  
4 follows: 28-170a. (a) There is hereby established a prosecuting attorneys'  
5 training fund. The clerk of the district court shall charge a fee of \$1 in  
6 each criminal case, to be deducted from the docket fee as provided in  
7 K.S.A. 28-172a and amendments thereto and shall charge a fee of \$1 in  
8 each case pursuant to the *revised* Kansas code for care of children or the  
9 revised Kansas juvenile justice code and each mental illness, drug abuse  
10 or alcoholism treatment action as provided by subsection (c) of K.S.A. 28-  
11 170 and amendments thereto. The clerk of the district court, at least  
12 monthly, shall pay all such fees received to the county treasurer who shall  
13 credit the same to the prosecuting attorneys' training fund.

14 (b) Expenditures from the prosecuting attorneys' training fund shall  
15 be paid by the county treasurer upon the order of the county or district  
16 attorney and shall be used exclusively for the training of personnel in such  
17 attorney's office and costs related thereto. Annually, on or before March  
18 15, each county and district attorney shall submit to the attorney general  
19 and the chairperson of the judiciary committee of each house, an ac-  
20 counting that shows for the preceding year the amount of fees paid into  
21 the prosecuting attorneys' training fund, the amounts and purpose of each  
22 expenditure from such fund and the balance in such fund on December  
23 31 of the preceding year. The purpose for each expenditure shall specif-  
24 ically identify the person or persons for whom the expenditure was made  
25 and, where applicable, the time and place where the training was re-  
26 ceived. If any expenditure was paid to a nonprofit organization organized  
27 in this state of which the county or district attorney is a member, the  
28 county or district attorney shall include information on the training re-  
29 ceived for such expenditure which information shall show the persons  
30 receiving the training and the time and place thereof.

31 Sec. 17. K.S.A. 2006 Supp. 28-172a is hereby amended to read as  
32 follows: 28-172a. (a) Except as otherwise provided in this section, when-  
33 ever the prosecuting witness or defendant is adjudged to pay the costs in  
34 a criminal proceeding in any county, a docket fee shall be taxed as follows:

35 (1) On and after July 1, 2006 through June 30, 2010:

36 Murder or manslaughter.....	\$172.50
37 Other felony.....	163.00
38 Misdemeanor.....	128.00
39 Forfeited recognizance.....	64.50
40 Appeals from other courts.....	64.50

41 (2) On and after July 1, 2010:

42 Murder or manslaughter.....	\$170.50
43 Other felony.....	161.00

1	Misdemeanor.....	126.00
2	Forfeited recognizance .....	62.50
3	Appeals from other courts.....	62.50
4	(b) (1) Except as provided in paragraph (2), in actions involving the	
5	violation of any of the laws of this state regulating traffic on highways	
6	(including those listed in subsection (c) of K.S.A. 8-2118, and amend-	
7	ments thereto), a cigarette or tobacco infraction, any act declared a crime	
8	pursuant to the statutes contained in chapter 32 of Kansas Statutes An-	
9	notated and amendments thereto or any act declared a crime pursuant	
10	to the statutes contained in article 8 of chapter 82a of the Kansas Statutes	
11	Annotated, and amendments thereto, whenever the prosecuting witness	
12	or defendant is adjudged to pay the costs in the action, on and after July	
13	1, 2006 through June 30, 2010, a docket fee of \$66 shall be charged, and	
14	on and after July 1, 2010, a docket fee of \$64 shall be charged. When an	
15	action is disposed of under subsections (a) and (b) of K.S.A. 8-2118 or	
16	subsection (f) of K.S.A. 79-3393, and amendments thereto, whether by	
17	mail or in person, on and after July 1, 2006 through June 30, 2010, the	
18	docket fee to be paid as court costs shall be \$66, <i>and on</i> and after July 1,	
19	2010, the docket fee to be paid as court costs shall be \$64.	
20	(2) In actions involving the violation of a moving traffic violation un-	
21	der K.S.A. 8-2118, and amendments thereto, as defined by rules and	
22	regulations adopted under K.S.A. 8-249, and amendments thereto, when-	
23	ever the prosecuting witness or defendant is adjudged to pay the costs in	
24	the action, on and after July 1, 2006 through June 30, 2010, a docket fee	
25	of \$66 shall be charged, and on and after July 1, 2010, a docket fee of	
26	\$64 shall be charged. When an action is disposed of under subsection (a)	
27	and (b) of K.S.A. 8-2118, and amendments thereto, whether by mail or	
28	in person, on and after July 1, 2006 through June 30, 2010, the docket	
29	fee to be paid as court costs shall be \$66, and on and after July 1, 2010,	
30	the docket fee to be paid as court costs shall be \$64.	
31	(c) If a conviction is on more than one count, the docket fee shall be	
32	the highest one applicable to any one of the counts. The prosecuting	
33	witness or defendant, if assessed the costs, shall pay only one fee. Multiple	
34	defendants shall each pay one fee.	
35	(d) Statutory charges for law library funds, the law enforcement train-	
36	ing center fund, the prosecuting attorneys' training fund, the juvenile	
37	detention facilities fund, the judicial branch education fund, the emer-	
38	gency medical services operating fund and the judiciary technology fund	
39	shall be paid from the docket fee; the family violence and child abuse and	
40	neglect assistance and prevention fund fee shall be paid from criminal	
41	proceedings docket fees. All other fees and expenses to be assessed as	
42	additional court costs shall be approved by the court, unless specifically	
43	fixed by statute. Additional fees shall include, but are not limited to, fees	

1 for Kansas bureau of investigation forensic or laboratory analyses, fees for  
2 detention facility processing pursuant to K.S.A. 12-16,119, and amend-  
3 ments thereto, fees for the sexual assault evidence collection kit, fees for  
4 conducting an examination of a sexual assault victim, fees for service of  
5 process outside the state, witness fees, fees for transcripts and deposi-  
6 tions, costs from other courts, doctors' fees and examination and evalu-  
7 ation fees. No sheriff in this state shall charge any district court of this  
8 state a fee or mileage for serving any paper or process.

9 (e) In each case charging a violation of the laws relating to parking  
10 of motor vehicles on the statehouse grounds or other state-owned or  
11 operated property in Shawnee county, Kansas, as specified in K.S.A. 75-  
12 4510a, and amendments thereto, or as specified in K.S.A. 75-4508, and  
13 amendments thereto, the clerk shall tax a fee of \$2 which shall constitute  
14 the entire costs in the case, except that witness fees, mileage and expenses  
15 incurred in serving a warrant shall be in addition to the fee. Appearance  
16 bond for a parking violation of K.S.A. 75-4508 or 75-4510a, and amend-  
17 ments thereto, shall be \$3, unless a warrant is issued. The judge may  
18 order the bond forfeited upon the defendant's failure to appear, and \$2  
19 of any bond so forfeited shall be regarded as court costs.

20 (f) *The docket fee established in this section shall be the only fee col-*  
21 *lected or moneys in the nature of a fee collected for the docket fee. Such*  
22 *fee shall only be established by an act of the legislature and no other*  
23 *authority is established by law or otherwise to collect a fee.*

24 Sec. 18. K.S.A. 2006 Supp. 28-172b is hereby amended to read as  
25 follows: 28-172b. (a) There is hereby established in the state treasury an  
26 indigents' defense services fund.

27 (b) The clerk of the district court shall charge a fee of \$.50 in each  
28 criminal case, to be deducted from the docket fee as provided in K.S.A.  
29 28-172a, and amendments thereto, and shall charge a fee of \$.50 in each  
30 case pursuant to the *revised* Kansas code for care of children or the re-  
31 vised Kansas juvenile justice code and each mental illness, drug abuse or  
32 alcoholism treatment action as provided by subsection (d) of K.S.A. 28-  
33 170, and amendments thereto. The clerk of the district court shall remit  
34 all such fees received to the state treasurer in accordance with the pro-  
35 visions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each  
36 such remittance, the state treasurer shall deposit the entire amount in the  
37 state treasury to the credit of the indigents' defense services fund.

38 (c) Moneys in the indigents' defense services fund shall be used ex-  
39 clusively to provide counsel and related services for indigent defendants.  
40 Expenditures from such fund shall be made in accordance with appro-  
41 priation acts upon warrants of the director of accounts and reports issued  
42 pursuant to vouchers approved by the chairperson of the state board of  
43 indigents' defense services or a person designated by the chairperson.

1     Sec. 19. K.S.A. 2006 Supp. 38-140 is hereby amended to read as  
2 follows: 38-140. The provisions of K.S.A. 38-135 through 38-140 shall not  
3 affect authority to consent to immunization of a minor pursuant to ~~K.S.A.~~  
4 ~~38-1513 or K.S.A. 2006 Supp. 38-2316~~ K.S.A. 2006 Supp. 38-2217 or 38-  
5 2316, and amendments thereto, or pursuant to any other law.

6     Sec. 20. K.S.A. 2006 Supp. 39-709 is hereby amended to read as  
7 follows: 39-709. (a) *General eligibility requirements for assistance for*  
8 *which federal moneys are expended.* Subject to the additional require-  
9 ments below, assistance in accordance with plans under which federal  
10 moneys are expended may be granted to any needy person who:

11     (1) Has insufficient income or resources to provide a reasonable sub-  
12 sistence compatible with decency and health. Where a husband and wife  
13 are living together, the combined income or resources of both shall be  
14 considered in determining the eligibility of either or both for such assis-  
15 tance unless otherwise prohibited by law. The secretary, in determining  
16 need of any applicant for or recipient of assistance shall not take into  
17 account the financial responsibility of any individual for any applicant or  
18 recipient of assistance unless such applicant or recipient is such individ-  
19 ual's spouse or such individual's minor child or minor stepchild if the  
20 stepchild is living with such individual. The secretary in determining need  
21 of an individual may provide such income and resource exemptions as  
22 may be permitted by federal law. For purposes of eligibility for aid for  
23 families with dependent children, for food stamp assistance and for any  
24 other assistance provided through the department of social and rehabil-  
25 itation services under which federal moneys are expended, the secretary  
26 of social and rehabilitation services shall consider one motor vehicle  
27 owned by the applicant for assistance, regardless of the value of such  
28 vehicle, as exempt personal property and shall consider any equity in any  
29 additional motor vehicle owned by the applicant for assistance to be a  
30 nonexempt resource of the applicant for assistance.

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

33     (b) *Assistance to families with dependent children.* Assistance may be  
34 granted under this act to any dependent child, or relative, subject to the  
35 general eligibility requirements as set out in subsection (a), who resides  
36 in the state of Kansas or whose parent or other relative with whom the  
37 child is living resides in the state of Kansas. Such assistance shall be known  
38 as aid to families with dependent children. Where husband and wife are  
39 living together both shall register for work under the program require-  
40 ments for aid to families with dependent children in accordance with  
41 criteria and guidelines prescribed by rules and regulations of the secre-  
42 tary.

43     (c) *Aid to families with dependent children; assignment of support*



1 *rights and limited power of attorney.* By applying for or receiving aid to  
2 families with dependent children such applicant or recipient shall be  
3 deemed to have assigned to the secretary on behalf of the state any ac-  
4 crued, present or future rights to support from any other person such  
5 applicant may have in such person's own behalf or in behalf of any other  
6 family member for whom the applicant is applying for or receiving aid.  
7 In any case in which an order for child support has been established and  
8 the legal custodian and obligee under the order surrenders physical cus-  
9 tody of the child to a caretaker relative without obtaining a modification  
10 of legal custody and support rights on behalf of the child are assigned  
11 pursuant to this section, the surrender of physical custody and the as-  
12 signment shall transfer, by operation of law, the child's support rights  
13 under the order to the secretary on behalf of the state. Such assignment  
14 shall be of all accrued, present or future rights to support of the child  
15 surrendered to the caretaker relative. The assignment of support rights  
16 shall automatically become effective upon the date of approval for or  
17 receipt of such aid without the requirement that any document be signed  
18 by the applicant, recipient or obligee. By applying for or receiving aid to  
19 families with dependent children, or by surrendering physical custody of  
20 a child to a caretaker relative who is an applicant or recipient of such  
21 assistance on the child's behalf, the applicant, recipient or obligee is also  
22 deemed to have appointed the secretary, or the secretary's designee, as  
23 an attorney in fact to perform the specific act of negotiating and endorsing  
24 all drafts, checks, money orders or other negotiable instruments repre-  
25 senting support payments received by the secretary in behalf of any per-  
26 son applying for, receiving or having received such assistance. This limited  
27 power of attorney shall be effective from the date the secretary approves  
28 the application for aid and shall remain in effect until the assignment of  
29 support rights has been terminated in full.

30 (d) *Eligibility requirements for general assistance, the cost of which*  
31 *is not shared by the federal government.* (1) General assistance may be  
32 granted to eligible persons who do not qualify for financial assistance in  
33 a program in which the federal government participates and who satisfy  
34 the additional requirements prescribed by or under this subsection (d).

35 (A) To qualify for general assistance in any form a needy person must  
36 have insufficient income or resources to provide a reasonable subsistence  
37 compatible with decency and health and, except as provided for transi-  
38 tional assistance, be a member of a family in which a minor child or a  
39 pregnant woman resides or be unable to engage in employment. The  
40 secretary shall adopt rules and regulations prescribing criteria for estab-  
41 lishing when a minor child may be considered to be living with a family  
42 and whether a person is able to engage in employment, including such  
43 factors as age or physical or mental condition. Eligibility for general as-

1 assistance, other than transitional assistance, is limited to families in which  
2 a minor child or a pregnant woman resides or to an adult or family in  
3 which all legally responsible family members are unable to engage in  
4 employment. Where a husband and wife are living together the combined  
5 income or resources of both shall be considered in determining the eli-  
6 gibility of either or both for such assistance unless otherwise prohibited  
7 by law. The secretary in determining need of any applicant for or recipient  
8 of general assistance shall not take into account the financial responsibility  
9 of any individual for any applicant or recipient of general assistance unless  
10 such applicant or recipient is such individual's spouse or such individual's  
11 minor child or a minor stepchild if the stepchild is living with such indi-  
12 vidual. In determining the need of an individual, the secretary may pro-  
13 vide for income and resource exemptions.

14 (B) To qualify for general assistance in any form a needy person must  
15 be a citizen of the United States or an alien lawfully admitted to the  
16 United States and must be residing in the state of Kansas.

17 (2) General assistance in the form of transitional assistance may be  
18 granted to eligible persons who do not qualify for financial assistance in  
19 a program in which the federal government participates and who satisfy  
20 the additional requirements prescribed by or under this subsection (d),  
21 but who do not meet the criteria prescribed by rules and regulations of  
22 the secretary relating to inability to engage in employment or are not a  
23 member of a family in which a minor or a pregnant woman resides.

24 (3) In addition to the other requirements prescribed under this sub-  
25 section (d), the secretary shall adopt rules and regulations which establish  
26 community work experience program requirements for eligibility for the  
27 receipt of general assistance in any form and which establish penalties to  
28 be imposed when a work assignment under a community work experience  
29 program requirement is not completed without good cause. The secretary  
30 may adopt rules and regulations establishing exemptions from any such  
31 community work experience program requirements. A first time failure  
32 to complete such a work assignment requirement shall result in ineligi-  
33 bility to receive general assistance for a period fixed by such rules and  
34 regulations of not more than three calendar months. A subsequent failure  
35 to complete such a work assignment requirement shall result in a period  
36 fixed by such rules and regulations of ineligibility of not more than six  
37 calendar months.

38 (4) If any person is found guilty of the crime of theft under the pro-  
39 visions of K.S.A. 39-720, and amendments thereto, such person shall  
40 thereby become forever ineligible to receive any form of general assis-  
41 tance under the provisions of this subsection (d) unless the conviction is  
42 the person's first conviction under the provisions of K.S.A. 39-720, and  
43 amendments thereto, or the law of any other state concerning welfare

1 fraud. First time offenders convicted of a misdemeanor under the pro-  
2 visions of such statute shall become ineligible to receive any form of  
3 general assistance for a period of 12 calendar months from the date of  
4 conviction. First time offenders convicted of a felony under the provisions  
5 of such statute shall become ineligible to receive any form of general  
6 assistance for a period of 60 calendar months from the date of conviction.  
7 If any person is found guilty by a court of competent jurisdiction of any  
8 state other than the state of Kansas of a crime involving welfare fraud,  
9 such person shall thereby become forever ineligible to receive any form  
10 of general assistance under the provisions of this subsection (d) unless  
11 the conviction is the person's first conviction under the law of any other  
12 state concerning welfare fraud. First time offenders convicted of a mis-  
13 demeanor under the law of any other state concerning welfare fraud shall  
14 become ineligible to receive any form of general assistance for a period  
15 of 12 calendar months from the date of conviction. First time offenders  
16 convicted of a felony under the law of any other state concerning welfare  
17 fraud shall become ineligible to receive any form of general assistance for  
18 a period of 60 calendar months from the date of conviction.

19 (e) *Requirements for medical assistance for which federal moneys or*  
20 *state moneys or both are expended.* (1) When the secretary has adopted  
21 a medical care plan under which federal moneys or state moneys or both  
22 are expended, medical assistance in accordance with such plan shall be  
23 granted to any person who is a citizen of the United States or who is an  
24 alien lawfully admitted to the United States and who is residing in the  
25 state of Kansas, whose resources and income do not exceed the levels  
26 prescribed by the secretary. In determining the need of an individual, the  
27 secretary may provide for income and resource exemptions and protected  
28 income and resource levels. Resources from inheritance shall be counted.  
29 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amend-  
30 ments thereto, shall constitute a transfer of resources. The secretary shall  
31 exempt principal and interest held in irrevocable trust pursuant to sub-  
32 section (c) of K.S.A. 16-303, and amendments thereto, from the eligibility  
33 requirements of applicants for and recipients of medical assistance. Such  
34 assistance shall be known as medical assistance.

35 (2) For the purposes of medical assistance eligibility determinations  
36 on or after July 1, 2004, if an applicant or recipient owns property in joint  
37 tenancy with some other party and the applicant or recipient of medical  
38 assistance has restricted or conditioned their interest in such property to  
39 a specific and discrete property interest less than 100%, then such des-  
40 ignation will cause the full value of the property to be considered an  
41 available resource to the applicant or recipient.

42 (3) Resources from trusts shall be considered when determining el-  
43 igibility of a trust beneficiary for medical assistance. Medical assistance is

1 to be secondary to all resources, including trusts, that may be available  
2 to an applicant or recipient of medical assistance. If a trust has discre-  
3 tionary language, the trust shall be considered to be an available resource  
4 to the extent, using the full extent of discretion, the trustee may make  
5 any of the income or principal available to the applicant or recipient of  
6 medical assistance. Any such discretionary trust shall be considered an  
7 available resource unless: (1) The trust is funded exclusively from re-  
8 sources of a person who, at the time of creation of the trust, owed no  
9 duty of support to the applicant or recipient; and (2) the trust contains  
10 specific contemporaneous language that states an intent that the trust be  
11 supplemental to public assistance and the trust makes specific reference  
12 to medicaid, medical assistance or title XIX of the social security act.

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

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

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

1 care outside of Kansas whose health would be endangered by the post-  
2 ponement of medical care until return to the state or by travel to return  
3 to Kansas, may be determined eligible for medical assistance if such in-  
4 dividual is a resident of Kansas and all other eligibility factors are met.  
5 Persons who are receiving medical care on an ongoing basis in a long-  
6 term medical care facility in a state other than Kansas and who do not  
7 return to a care facility in Kansas when they are able to do so, shall no  
8 longer be eligible to receive assistance in Kansas unless such medical care  
9 is not available in a comparable facility or program providing such medical  
10 care in Kansas. For persons who are minors or who are under guardi-  
11 anship, the actions of the parent or guardian shall be deemed to be the  
12 actions of the child or ward in determining whether or not the person is  
13 remaining outside the state voluntarily.

14 (g) *Medical assistance; assignment of rights to medical support and*  
15 *limited power of attorney; recovery from estates of deceased recipients.*  
16 (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and  
17 amendments thereto, or as otherwise authorized on and after September  
18 30, 1989, under section 303 and amendments thereto of the federal medi-  
19 care catastrophic coverage act of 1988, whichever is applicable, by ap-  
20 plying for or receiving medical assistance under a medical care plan in  
21 which federal funds are expended, any accrued, present or future rights  
22 to support and any rights to payment for medical care from a third party  
23 of an applicant or recipient and any other family member for whom the  
24 applicant is applying shall be deemed to have been assigned to the sec-  
25 retary on behalf of the state. The assignment shall automatically become  
26 effective upon the date of approval for such assistance without the re-  
27 quirement that any document be signed by the applicant or recipient. By  
28 applying for or receiving medical assistance the applicant or recipient is  
29 also deemed to have appointed the secretary, or the secretary's designee,  
30 as an attorney in fact to perform the specific act of negotiating and en-  
31 dorsing all drafts, checks, money orders or other negotiable instruments,  
32 representing payments received by the secretary in behalf of any person  
33 applying for, receiving or having received such assistance. This limited  
34 power of attorney shall be effective from the date the secretary approves  
35 the application for assistance and shall remain in effect until the assign-  
36 ment has been terminated in full. The assignment of any rights to pay-  
37 ment for medical care from a third party under this subsection shall not  
38 prohibit a health care provider from directly billing an insurance carrier  
39 for services rendered if the provider has not submitted a claim covering  
40 such services to the secretary for payment. Support amounts collected on  
41 behalf of persons whose rights to support are assigned to the secretary  
42 only under this subsection and no other shall be distributed pursuant to  
43 subsection (d) of K.S.A. 39-756, and amendments thereto, except that

1 any amounts designated as medical support shall be retained by the sec-  
2 retary for repayment of the unreimbursed portion of assistance. Amounts  
3 collected pursuant to the assignment of rights to payment for medical  
4 care from a third party shall also be retained by the secretary for repay-  
5 ment of the unreimbursed portion of assistance.

6 (2) The amount of any medical assistance paid after June 30, 1992,  
7 under the provisions of subsection (e) is (A) a claim against the property  
8 or any interest therein belonging to and a part of the estate of any de-  
9 ceased recipient or, if there is no estate, the estate of the surviving spouse,  
10 if any, shall be charged for such medical assistance paid to either or both,  
11 and (B) a claim against any funds of such recipient or spouse in any  
12 account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-  
13 5829, and amendments thereto. There shall be no recovery of medical  
14 assistance correctly paid to or on behalf of an individual under subsection  
15 (e) except after the death of the surviving spouse of the individual, if any,  
16 and only at a time when the individual has no surviving child who is under  
17 21 years of age or is blind or permanently and totally disabled. Transfers  
18 of real or personal property by recipients of medical assistance without  
19 adequate consideration are voidable and may be set aside. Except where  
20 there is a surviving spouse, or a surviving child who is under 21 years of  
21 age or is blind or permanently and totally disabled, the amount of any  
22 medical assistance paid under subsection (e) is a claim against the estate  
23 in any guardianship or conservatorship proceeding. The monetary value  
24 of any benefits received by the recipient of such medical assistance under  
25 long-term care insurance, as defined by K.S.A. 40-2227, and amendments  
26 thereto, shall be a credit against the amount of the claim provided for  
27 such medical assistance under this subsection (g). The secretary is au-  
28 thorized to enforce each claim provided for under this subsection (g).  
29 The secretary shall not be required to pursue every claim, but is granted  
30 discretion to determine which claims to pursue. All moneys received by  
31 the secretary from claims under this subsection (g) shall be deposited in  
32 the social welfare fund. The secretary may adopt rules and regulations  
33 for the implementation and administration of the medical assistance re-  
34 covery program under this subsection (g).

35 (3) By applying for or receiving medical assistance under the provi-  
36 sions of article 7 of chapter 39 of the Kansas Statutes Annotated, such  
37 individual or such individual's agent, fiduciary, guardian, conservator, rep-  
38 resentative payee or other person acting on behalf of the individual con-  
39 sents to the following definitions of estate and the results therefrom:

40 (A) If an individual receives any medical assistance before July 1,  
41 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
42 which forms the basis for a claim under subsection (g)(2), such claim is  
43 limited to the individual's probatable estate as defined by applicable law;

1 and

2 (B) if an individual receives any medical assistance on or after July 1,  
3 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,  
4 which forms the basis for a claim under subsection (g)(2), such claim shall  
5 apply to the individual's medical assistance estate. The medical assistance  
6 estate is defined as including all real and personal property and other  
7 assets in which the deceased individual had any legal title or interest  
8 immediately before or at the time of death to the extent of that interest  
9 or title. The medical assistance estate includes, without limitation assets  
10 conveyed to a survivor, heir or assign of the deceased recipient through  
11 joint tenancy, tenancy in common, survivorship, transfer-on-death deed,  
12 payable-on-death contract, life estate, trust, annuities or similar arrange-  
13 ment.

14 (4) The secretary of social and rehabilitation services or the secre-  
15 tary's designee is authorized to file and enforce a lien against the real  
16 property of a recipient of medical assistance in certain situations, subject  
17 to all prior liens of record. The lien must be filed in the office of the  
18 register of deeds of the county where the real property is located and  
19 must contain the legal description of all real property in the county subject  
20 to the lien. This lien is for payments of medical assistance made by the  
21 department of social and rehabilitation services to the recipient who is an  
22 inpatient in a nursing home or other medical institution. Such lien may  
23 be filed only after notice and an opportunity for a hearing has been given.  
24 Such lien may be enforced only upon competent medical testimony that  
25 the recipient cannot reasonably be expected to be discharged and re-  
26 turned home. A six-month period of compensated inpatient care at a  
27 nursing home, nursing homes or other medical institution shall constitute  
28 a determination by the department of social and rehabilitation services  
29 that the recipient cannot reasonably be expected to be discharged and  
30 returned home. To return home means the recipient leaves the nursing  
31 or medical facility and resides in the home on which the lien has been  
32 placed for a period of at least 90 days without being readmitted as an  
33 inpatient to a nursing or medical facility. The amount of the lien shall be  
34 for the amount of assistance paid by the department of social and reha-  
35 bilitation services after the expiration of six months from the date the  
36 recipient became eligible for compensated inpatient care at a nursing  
37 home, nursing homes or other medical institution until the time of the  
38 filing of the lien and for any amount paid thereafter for such medical  
39 assistance to the recipient.

40 (5) The lien filed by the secretary or the secretary's designee for med-  
41 ical assistance correctly received may be enforced before or after the  
42 death of the recipient by the filing of an action to foreclose such lien in  
43 the Kansas district court or through an estate probate court action in the

- 1 county where the real property of the recipient is located. However, it  
2 may be enforced only:
- 3 (A) After the death of the surviving spouse of the recipient;
  - 4 (B) when there is no child of the recipient, natural or adopted, who  
5 is 20 years of age or less residing in the home;
  - 6 (C) when there is no adult child of the recipient, natural or adopted,  
7 who is blind or disabled residing in the home; or
  - 8 (D) when no brother or sister of the recipient is lawfully residing in  
9 the home, who has resided there for at least one year immediately before  
10 the date of the recipient's admission to the nursing or medical facility,  
11 and has resided there on a continuous basis since that time.
- 12 (6) The lien remains on the property even after a transfer of the title  
13 by conveyance, sale, succession, inheritance or will unless one of the fol-  
14 lowing events occur:
- 15 (A) The lien is satisfied. The recipient, the heirs, personal represen-  
16 tative or assigns of the recipient may discharge such lien at any time by  
17 paying the amount of the lien to the secretary or the secretary's designee;
  - 18 (B) the lien is terminated by foreclosure of prior lien of record or  
19 settlement action taken in lieu of foreclosure;
  - 20 (C) the value of the real property is consumed by the lien, at which  
21 time the secretary or the secretary's designee may force the sale for the  
22 real property to satisfy the lien; or
  - 23 (D) after a lien is filed against the real property, it will be dissolved  
24 if the recipient leaves the nursing or medical facility and resides in the  
25 property to which the lien is attached for a period of more than 90 days  
26 without being readmitted as an inpatient to a nursing or medical facility,  
27 even though there may have been no reasonable expectation that this  
28 would occur. If the recipient is readmitted to a nursing or medical facility  
29 during this period, and does return home after being released, another  
30 90 days must be completed before the lien can be dissolved.
- 31 (7) If the secretary of social and rehabilitation services or the secre-  
32 tary's designee has not filed an action to foreclose the lien in the Kansas  
33 district court in the county where the real property is located within 10  
34 years from the date of the filing of the lien, then the lien shall become  
35 dormant, and shall cease to operate as a lien on the real estate of the  
36 recipient. Such dormant lien may be revived in the same manner as a  
37 dormant judgment lien is revived under K.S.A. 60-2403 et seq., and  
38 amendments thereto.
- 39 (h) *Placement under the revised Kansas code for care of children or*  
40 *revised Kansas juvenile justice code; assignment of support rights and*  
41 *limited power of attorney.* In any case in which the secretary of social and  
42 rehabilitation services pays for the expenses of care and custody of a child  
43 pursuant to ~~K.S.A. 38-1501~~ K.S.A. 2006 Supp. 38-2201 et seq. or K.S.A.



1 2006 Supp. 38-2301 et seq., and amendments thereto, including the ex-  
2 penses of any foster care placement, an assignment of all past, present  
3 and future support rights of the child in custody possessed by either  
4 parent or other person entitled to receive support payments for the child  
5 is, by operation of law, conveyed to the secretary. Such assignment shall  
6 become effective upon placement of a child in the custody of the secretary  
7 or upon payment of the expenses of care and custody of a child by the  
8 secretary without the requirement that any document be signed by the  
9 parent or other person entitled to receive support payments for the child.  
10 When the secretary pays for the expenses of care and custody of a child  
11 or a child is placed in the custody of the secretary, the parent or other  
12 person entitled to receive support payments for the child is also deemed  
13 to have appointed the secretary, or the secretary's designee, as attorney  
14 in fact to perform the specific act of negotiating and endorsing all drafts,  
15 checks, money orders or other negotiable instruments representing sup-  
16 port payments received by the secretary on behalf of the child. This lim-  
17 ited power of attorney shall be effective from the date the assignment to  
18 support rights becomes effective and shall remain in effect until the as-  
19 signment of support rights has been terminated in full.

20 (i) No person who voluntarily quits employment or who is fired from  
21 employment due to gross misconduct as defined by rules and regulations  
22 of the secretary or who is a fugitive from justice by reason of a felony  
23 conviction or charge shall be eligible to receive public assistance benefits  
24 in this state. Any recipient of public assistance who fails to timely comply  
25 with monthly reporting requirements under criteria and guidelines pre-  
26 scribed by rules and regulations of the secretary shall be subject to a  
27 penalty established by the secretary by rules and regulations.

28 (j) If the applicant or recipient of aid to families with dependent chil-  
29 dren is a mother of the dependent child, as a condition of the mother's  
30 eligibility for aid to families with dependent children the mother shall  
31 identify by name and, if known, by current address the father of the  
32 dependent child except that the secretary may adopt by rules and regu-  
33 lations exceptions to this requirement in cases of undue hardship. Any  
34 recipient of aid to families with dependent children who fails to cooperate  
35 with requirements relating to child support enforcement under criteria  
36 and guidelines prescribed by rules and regulations of the secretary shall  
37 be subject to a penalty established by the secretary by rules and regula-  
38 tions which penalty shall progress to ineligibility for the family after three  
39 months of noncooperation.

40 (k) By applying for or receiving child care benefits or food stamps,  
41 the applicant or recipient shall be deemed to have assigned, pursuant to  
42 K.S.A. 39-756 and amendments thereto, to the secretary on behalf of the  
43 state only accrued, present or future rights to support from any other

1 person such applicant may have in such person's own behalf or in behalf  
2 of any other family member for whom the applicant is applying for or  
3 receiving aid. The assignment of support rights shall automatically be-  
4 come effective upon the date of approval for or receipt of such aid without  
5 the requirement that any document be signed by the applicant or recip-  
6 ient. By applying for or receiving child care benefits or food stamps, the  
7 applicant or recipient is also deemed to have appointed the secretary, or  
8 the secretary's designee, as an attorney in fact to perform the specific act  
9 of negotiating and endorsing all drafts, checks, money orders or other  
10 negotiable instruments representing support payments received by the  
11 secretary in behalf of any person applying for, receiving or having received  
12 such assistance. This limited power of attorney shall be effective from the  
13 date the secretary approves the application for aid and shall remain in  
14 effect until the assignment of support rights has been terminated in full.  
15 An applicant or recipient who has assigned support rights to the secretary  
16 pursuant to this subsection shall cooperate in establishing and enforcing  
17 support obligations to the same extent required of applicants for or re-  
18 cipients of aid to families with dependent children.

19 Sec. 21. K.S.A. 2006 Supp. 39-754 is hereby amended to read as  
20 follows: 39-754. (a) If an assignment of support rights is deemed to have  
21 been made pursuant to K.S.A. 39-709 or 39-756, and amendments  
22 thereto, support payments shall be made to the department of social and  
23 rehabilitation services.

24 (b) If a court has ordered support payments to be made to an appli-  
25 cant for or recipient of financial assistance or other person whose support  
26 rights are assigned, the secretary of social and rehabilitation services shall  
27 file a notice of the assignment with the court ordering the payments  
28 without the requirement that a copy of the notice be provided to the  
29 obligee or obligor. The notice shall not require the signature of the ap-  
30 plicant, recipient or obligee on any accompanying assignment document.  
31 The notice shall include:

- 32 (1) A statement that the assignment is in effect;  
33 (2) the name of any child and the caretaker or other adult for whom  
34 support has been ordered by the court;  
35 (3) the number of the case in which support was ordered; and  
36 (4) a request that the payments ordered be made to the secretary of  
37 social and rehabilitation services.

38 (c) Upon receipt of the notice and without the requirement of a hear-  
39 ing or order, the court shall forward all support payments, including those  
40 made as a result of any garnishment, contempt, attachment, income with-  
41 holding, income assignment or release of lien process, to the secretary of  
42 social and rehabilitation services until the court receives notification of  
43 the termination of the assignment.

1 (d) If the claim of the secretary for repayment of the unreimbursed  
2 portion of aid to families with dependent children, medical assistance or  
3 the child's share of the costs of care and custody of a child under ~~K.S.A.~~  
4 ~~38-1501~~ *K.S.A. 2006 Supp. 38-2201* et seq. or *K.S.A. 2006 Supp. 38-2301*  
5 et seq., and amendments thereto, is not satisfied when such aid is dis-  
6 continued, the secretary shall file a notice of partial termination of as-  
7 signment of support rights with the court which will preserve the assign-  
8 ment in regard to unpaid support rights which were due and owing at the  
9 time of the discontinuance of such aid. A copy of the notice of the partial  
10 termination of the assignment need not be provided to the obligee or  
11 obligor. The notice shall include:

12 (1) A statement that the assignment has been partially terminated;  
13 (2) the name of any child and the caretaker or other adult for whom  
14 support has been ordered by the court;  
15 (3) the number of the case in which support was ordered; and  
16 (4) the date the assignment was partially terminated.  
17 (e) Upon receipt of the notice and without the requirement of a hear-  
18 ing or order, the court shall forward all payments made to satisfy support  
19 arrearages due and owing as of the date the assignment of support rights  
20 was partially terminated to the secretary of social and rehabilitation serv-  
21 ices until the court receives notification of the termination of the assign-  
22 ment.

23 (f) If the secretary of social and rehabilitation services or the secre-  
24 tary's designee has on file with the court ordering support payments, a  
25 notice of assignment of support rights pursuant to subsection (b) or a  
26 notice of partial termination of assignment of support rights pursuant to  
27 subsection (d), the secretary shall be considered a necessary party in in-  
28 terest concerning any legal action to enforce, modify, settle, satisfy or  
29 discharge an assigned support obligation and, as such, shall be given no-  
30 tice by the party filing such action in accordance with the rules of civil  
31 procedure.

32 (g) Upon written notification by the secretary's designee that assigned  
33 support has been collected pursuant to *K.S.A. 44-718* or *75-6201* et seq.,  
34 and amendments thereto, or section 464 of title IV, part D, of the federal  
35 social security act, or any other method of direct payment to the secretary,  
36 the clerk of the court or other record keeper where the support order  
37 was established, shall enter the amounts collected by the secretary of  
38 social and rehabilitation services in the court's payment ledger or other  
39 record to insure that the obligor is credited for the amounts collected.

40 Sec. 22. *K.S.A. 2006 Supp. 39-756* is hereby amended to read as  
41 follows: 39-756. (a) (1) The secretary of social and rehabilitation services  
42 shall make support enforcement services required under part D of title  
43 IV of the federal social security act (42 U.S.C. § 651 et seq.), or acts

1 amendatory thereof or supplemental thereto, and federal regulations  
2 promulgated pursuant thereto, including but not limited to the location  
3 of parents, the establishment of paternity and the enforcement of child  
4 support obligations, available to persons not subject to the requirements  
5 of K.S.A. 39-709 and amendments thereto and not receiving support en-  
6 forcement services pursuant to subsection (b). Persons who previously  
7 received public assistance but who are not receiving support enforcement  
8 services pursuant to subsection (b) may apply for or receive support en-  
9 forcement services pursuant to this subsection.

10 (2) By applying for or receiving support enforcement services pur-  
11 suant to subsection (a)(1), the applicant or recipient shall be deemed to  
12 have assigned to the secretary on behalf of the state any accrued, present  
13 or future rights to support from any other person such applicant may have  
14 in behalf of any family member, including the applicant, for whom the  
15 applicant is applying for or receiving support enforcement services. The  
16 assignment shall automatically become effective upon the date of appli-  
17 cation for or receipt of support enforcement services, whichever is earlier,  
18 and shall remain in full force and effect so long as the secretary provides  
19 support enforcement services on behalf of the applicant, recipient or  
20 child. By applying for or receiving support enforcement services pursuant  
21 to subsection (a)(1), the applicant, recipient or obligee is also deemed to  
22 have appointed the secretary or the secretary's designee as an attorney in  
23 fact to perform the specific act of negotiating and endorsing all drafts,  
24 checks, money orders or other negotiable instruments representing sup-  
25 port payments received by the secretary in behalf of any person for whom  
26 the secretary is providing support enforcement services. This limited  
27 power of attorney shall be effective from the date support rights are as-  
28 signed and shall remain in effect until the assignment is terminated in  
29 full.

30 (3) Nothing in this subsection shall affect or limit any existing assign-  
31 ment or claim for repayment of any unreimbursed portion of assistance  
32 pursuant to K.S.A. 39-709 and amendments thereto or affect or limit any  
33 subsequent assignment of support rights.

34 (b) (1) Upon discontinuance of all public assistance in accordance  
35 with a plan under which federal moneys are expended on behalf of the  
36 applicant, recipient or child for: (A) Aid to families with dependent chil-  
37 dren, (B) medical assistance, or (C) the expenses of a child in the secre-  
38 tary's care or custody pursuant to ~~K.S.A. 38-1501~~ *K.S.A. 2006 Supp. 38-*  
39 *2201* et seq., and amendments thereto, or K.S.A. 2006 Supp. 38-2301 et  
40 seq., and amendments thereto, the secretary shall continue to provide all  
41 appropriate support enforcement services required under title IV-D of  
42 the federal social security act for the persons who were receiving assis-  
43 tance, unless the recipient requests that support enforcement services be

1 discontinued.

2 (2) When support enforcement services are provided pursuant to  
3 subsection (b)(1), the assignment of support rights and limited power of  
4 attorney pursuant to K.S.A. 39-709 and amendments thereto shall remain  
5 in full force and effect. When the secretary is no longer providing support  
6 enforcement services related to support obligations accruing after the  
7 date assistance was discontinued, the assignment of support rights shall  
8 remain in effect to the extent provided in K.S.A. 39-756a.

9 (3) Nothing in this subsection shall affect or limit any existing assign-  
10 ment or claim for repayment of any unreimbursed portion of assistance  
11 pursuant to K.S.A. 39-709 and amendments thereto or affect or limit any  
12 subsequent assignment of support rights.

13 (c) The secretary shall fix by rules and regulations a fee or fees for  
14 services rendered pursuant to this section as required by federal law or  
15 federal regulations, or both.

16 (d) Subject to subsection (g) of K.S.A. 39-709 and amendments  
17 thereto, amounts collected on behalf of persons receiving services pur-  
18 suant to subsection (a) or (b) shall be paid to them unless the secretary  
19 of social and rehabilitation services retains an assignment of support rights  
20 pursuant to K.S.A. 39-709 and amendments thereto. Except as otherwise  
21 provided in subsection (g) of K.S.A. 39-709 and amendments thereto if  
22 such an assignment is retained by the secretary, current support payments  
23 shall be paid to the obligee and the secretary may retain any support  
24 arrearage to which social and rehabilitation services has a claim. Any sup-  
25 port arrearage collected in excess of the amount assigned to social and  
26 rehabilitation services shall be paid to the obligee.

27 (e) In any action brought pursuant to this section or pursuant to sub-  
28 section (g) of K.S.A. 39-709 and amendments thereto, or any action  
29 brought by a governmental agency or contractor, to establish paternity or  
30 to establish or enforce a support obligation, the social and rehabilitation  
31 services' attorney or the attorneys with whom such agency contracts to  
32 provide such services shall represent the state department of social and  
33 rehabilitation services. Nothing in this section shall be construed to mod-  
34 ify statutory mandate, authority or confidentiality required by any gov-  
35 ernmental agency. Any representation by such attorney shall not be con-  
36 strued to create an attorney-client relationship between the attorney and  
37 any party, other than the state department of social and rehabilitation  
38 services.

39 Sec. 23. K.S.A. 2006 Supp. 39-756a is hereby amended to read as  
40 follows: 39-756a. An assignment of support rights pursuant to K.S.A. 39-  
41 709 and amendments thereto shall remain in full force and effect so long  
42 as the secretary is providing public assistance in accordance with a plan  
43 under which federal moneys are expended on behalf of the applicant,

1 recipient or child for: (a) Aid to families with dependent children, (b)  
2 medical assistance or (c) the expenses of a child in the secretary's care or  
3 custody pursuant to ~~K.S.A. 38-1501~~ K.S.A. 2006 Supp. 38-2201 et seq.,  
4 and amendments thereto, or K.S.A. 2006 Supp. 38-2301 et seq., and  
5 amendments thereto, or so long as the secretary is providing support  
6 enforcement services pursuant to K.S.A. 39-756 and amendments  
7 thereto. Upon discontinuance of all such assistance and support enforce-  
8 ment services, the assignment shall remain in effect as to unpaid support  
9 obligations due and owing at the time of the discontinuance of assistance  
10 until the claim of the secretary for repayment of the unreimbursed por-  
11 tion of any assistance is satisfied. If the secretary's claim for reimburse-  
12 ment is only for medical assistance, the assignment shall only remain in  
13 effect as to unpaid support obligations due and owing at the time of the  
14 discontinuance of medical assistance that are designated as medical sup-  
15 port. Nothing herein shall affect or limit the rights of the secretary under  
16 an assignment of rights to payment for medical care from a third party  
17 pursuant to subsection (g) of K.S.A. 39-709 and amendments thereto.

18 Sec. 24. K.S.A. 2006 Supp. 39-7,121d is hereby amended to read as  
19 follows: 39-7,121d. (a) The state medicaid plan shall include provisions  
20 for a program of differential dispensing fees for pharmacies that provide  
21 prescriptions for adult care homes under a unit dose system in accordance  
22 with rules and regulations of the state board of pharmacy and that partic-  
23 ipate in the return of unused medications program under the state  
24 medicaid plan.

25 (b) The state medicaid plan shall include provisions for differential  
26 ingredient cost reimbursement of generic and brand name pharmaceu-  
27 ticals. The Kansas health policy authority shall set the rates for differential  
28 cost reimbursement of generic and brand name pharmaceuticals by rules  
29 and regulations.

30 (c) *On and after May 23, 2007, the state medicaid plan shall require*  
31 *that every pharmacy claim form under the plan include the prescriber's*  
32 *unique identification number.*

33 Sec. 25. K.S.A. 2006 Supp. 39-1305 is hereby amended to read as  
34 follows: 39-1305. "Community based group boarding homes for children  
35 and youth" means any shelter facility, juvenile detention facility or youth  
36 residential facility, as defined by ~~K.S.A. 38-1502~~ and K.S.A. 2006 Supp.  
37 38-2202 and 38-2302, and amendments thereto.

38 Sec. 26. K.S.A. 2006 Supp. 41-727 is hereby amended to read as  
39 follows: 41-727. (a) Except with regard to serving of alcoholic liquor or  
40 cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a,  
41 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and  
42 subject to any rules and regulations adopted pursuant to such statutes,  
43 no person under 21 years of age shall possess, consume, obtain, purchase

- 1 or attempt to obtain or purchase alcoholic liquor or cereal malt beverage  
2 except as authorized by law.
- 3 (b) Violation of this section by a person 18 or more years of age but  
4 less than 21 years of age is a class C misdemeanor for which the minimum  
5 fine is \$200.
- 6 (c) Any person less than 18 years of age who violates this section is a  
7 juvenile offender under the *revised* Kansas juvenile justice code. Upon  
8 adjudication thereof and as a condition of disposition, the court shall re-  
9 quire the offender to pay a fine of not less than \$200 nor more than \$500.
- 10 (d) In addition to any other penalty provided for a violation of this  
11 section: (1) The court may order the offender to do either or both of the  
12 following:
- 13 (A) Perform 40 hours of public service; or  
14 (B) attend and satisfactorily complete a suitable educational or train-  
15 ing program dealing with the effects of alcohol or other chemical sub-  
16 stances when ingested by humans; ~~and~~
- 17 (2) Upon a first conviction of a violation of this section, the court shall  
18 order the division of vehicles to suspend the driving privilege of such  
19 offender for 30 days. Upon receipt of the court order, the division shall  
20 notify the violator and suspend the driving privileges of the violator for  
21 30 days whether or not that person has a driver's license.
- 22 (3) Upon a second conviction of a violation of this section, the court  
23 shall order the division of vehicles to suspend the driving privilege of such  
24 offender for 90 days. Upon receipt of the court order, the division shall  
25 notify the violator and suspend the driving privileges of the violator for  
26 90 days whether or not that person has a driver's license.
- 27 (4) Upon a third or subsequent conviction of a violation of this sec-  
28 tion, the court shall order the division of vehicles to suspend the driving  
29 privilege of such offender for one year. Upon receipt of the court order,  
30 the division shall notify the violator and suspend the driving privileges of  
31 the violator for one year whether or not that person has a driver's license.
- 32 (e) This section shall not apply to the possession and consumption of  
33 cereal malt beverage by a person under the legal age for consumption of  
34 cereal malt beverage when such possession and consumption is permitted  
35 and supervised, and such beverage is furnished, by the person's parent  
36 or legal guardian.
- 37 (f) Any city ordinance or county resolution prohibiting the acts pro-  
38 hibited by this section shall provide a minimum penalty which is not less  
39 than the minimum penalty prescribed by this section.
- 40 (g) A law enforcement officer may request a person under 21 years  
41 of age to submit to a preliminary screening test of the person's breath to  
42 determine if alcohol has been consumed by such person if the officer has  
43 reasonable grounds to believe that the person has alcohol in the person's

1 body except that, if the officer has reasonable grounds to believe the  
2 person has been operating or attempting to operate a vehicle under the  
3 influence of alcohol, the provisions of K.S.A. 8-1012, and amendments  
4 thereto, shall apply. No waiting period shall apply to the use of a prelim-  
5 inary breath test under this subsection. If the person submits to the test,  
6 the results shall be used for the purpose of assisting law enforcement  
7 officers in determining whether an arrest should be made for violation of  
8 this section. A law enforcement officer may arrest a person based in whole  
9 or in part upon the results of a preliminary screening test. Such results  
10 or a refusal to submit to a preliminary breath test shall be admissible in  
11 court in any criminal action, but are not *per se* proof that the person has  
12 violated this section. The person may present to the court evidence to  
13 establish the positive preliminary screening test was not the result of a  
14 violation of this section.

15 (h) This section shall be part of and supplemental to the Kansas liquor  
16 control act.

17 Sec. 27. K.S.A. 2006 Supp. 44-703, as amended by section 1 of 2007  
18 Senate Bill No. 83, is hereby amended to read as follows: 44-703. As used  
19 in this act, unless the context clearly requires otherwise:

20 (a) (1) "Annual payroll" means the total amount of wages paid or  
21 payable by an employer during the calendar year.

22 (2) "Average annual payroll" means the average of the annual payrolls  
23 of any employer for the last three calendar years immediately preceding  
24 the computation date as hereinafter defined if the employer has been  
25 continuously subject to contributions during those three calendar years  
26 and has paid some wages for employment during each of such years. In  
27 determining contribution rates for the calendar year, if an employer has  
28 not been continuously subject to contribution for the three calendar years  
29 immediately preceding the computation date but has paid wages subject  
30 to contributions during only the two calendar years immediately preced-  
31 ing the computation date, such employer's "average annual payroll" shall  
32 be the average of the payrolls for those two calendar years.

33 (3) "Total wages" means the total amount of wages paid or payable  
34 by an employer during the calendar year, including that part of remun-  
35 eration in excess of the limitation prescribed as provided in subsection  
36 (o)(1) of this section.

37 (b) "Base period" means the first four of the last five completed cal-  
38 endar quarters immediately preceding the first day of an individual's ben-  
39 efit year, except that the base period in respect to combined wage claims  
40 means the base period as defined in the law of the paying state.

41 (1) If an individual lacks sufficient base period wages in order to es-  
42 tablish a benefit year in the matter set forth above and satisfies the  
43 requirements of subsection (g) of K.S.A. 44-705 and subsection (hh) of



1 K.S.A. 44-703, and amendments thereto, the claimant shall have an al-  
2 ternative base period substituted for the current base period so as not to  
3 prevent establishment of a valid claim. For the purposes of this subsec-  
4 tion, “alternative base period” means the last four completed quarters  
5 immediately preceding the date the qualifying injury occurred. In the  
6 event the wages in the alternative base period have been used on a prior  
7 claim, then they shall be excluded from the new alternative base period.

8 (2) For the purposes of this chapter, the term “base period” includes  
9 the alternative base period.

10 (c) (1) “Benefits” means the money payments payable to an individ-  
11 ual, as provided in this act, with respect to such individual’s unemploy-  
12 ment.

13 (2) “Regular benefits” means benefits payable to an individual under  
14 this act or under any other state law, including benefits payable to federal  
15 civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85,  
16 other than extended benefits.

17 (d) “Benefit year” with respect to any individual, means the period  
18 beginning with the first day of the first week for which such individual  
19 files a valid claim for benefits, and such benefit year shall continue for  
20 one full year. In the case of a combined wage claim, the benefit year shall  
21 be the benefit year of the paying state. Following the termination of a  
22 benefit year, a subsequent benefit year shall commence on the first day  
23 of the first week with respect to which an individual next files a claim for  
24 benefits. When such filing occurs with respect to a week which overlaps  
25 the preceding benefit year, the subsequent benefit year shall commence  
26 on the first day immediately following the expiration date of the preceding  
27 benefit year. Any claim for benefits made in accordance with subsection  
28 (a) of K.S.A. 44-709, and amendments thereto, shall be deemed to be a  
29 “valid claim” for the purposes of this subsection if the individual has been  
30 paid wages for insured work as required under subsection (e) of K.S.A.  
31 44-705 and amendments thereto. Whenever a week of unemployment  
32 overlaps two benefit years, such week shall, for the purpose of granting  
33 waiting-period credit or benefit payment with respect thereto, be deemed  
34 to be a week of unemployment within that benefit year in which the  
35 greater part of such week occurs.

36 (e) “Commissioner” or “secretary” means the secretary of labor.

37 (f) (1) “Contributions” means the money payments to the state em-  
38 ployment security fund which are required to be made by employers on  
39 account of employment under K.S.A. 44-710, and amendments thereto,  
40 and voluntary payments made by employers pursuant to such statute.

41 (2) “Payments in lieu of contributions” means the money payments  
42 to the state employment security fund from employers which are required  
43 to make or which elect to make such payments under subsection (e) of

1 K.S.A. 44-710 and amendments thereto.

2 (g) "Employing unit" means any individual or type of organization,  
3 including any partnership, association, limited liability company, agency  
4 or department of the state of Kansas and political subdivisions thereof,  
5 trust, estate, joint-stock company, insurance company or corporation,  
6 whether domestic or foreign including nonprofit corporations, or the re-  
7 ceiver, trustee in bankruptcy, trustee or successor thereof, or the legal  
8 representatives of a deceased person, which has in its employ one or more  
9 individuals performing services for it within this state. All individuals per-  
10 forming services within this state for any employing unit which maintains  
11 two or more separate establishments within this state shall be deemed to  
12 be employed by a single employing unit for all the purposes of this act.  
13 Each individual employed to perform or to assist in performing the work  
14 of any agent or employee of an employing unit shall be deemed to be  
15 employed by such employing unit for all the purposes of this act, whether  
16 such individual was hired or paid directly by such employing unit or by  
17 such agent or employee, provided the employing unit had actual or con-  
18 structive knowledge of the employment.

19 (h) "Employer" means:

20 (1) (A) Any employing unit for which agricultural labor as defined in  
21 subsection (w) of this section is performed and which during any calendar  
22 quarter in either the current or preceding calendar year paid remunera-  
23 tion in cash of \$20,000 or more to individuals employed in agricultural  
24 labor or for some portion of a day in each of 20 different calendar weeks,  
25 whether or not such weeks were consecutive, in either the current or the  
26 preceding calendar year, employed in agricultural labor 10 or more in-  
27 dividuals, regardless of whether they were employed at the same moment  
28 of time.

29 (B) For the purpose of this subsection (h)(1), any individual who is a  
30 member of a crew furnished by a crew leader to perform service in ag-  
31 ricultural labor for any other person shall be treated as an employee of  
32 such crew leader if:

33 (i) Such crew leader holds a valid certificate of registration under the  
34 federal migrant and seasonal agricultural workers protection act or sub-  
35 stantially all the members of such crew operate or maintain tractors,  
36 mechanized harvesting or cropdusting equipment or any other mecha-  
37 nized equipment, which is provided by such crew leader; and

38 (ii) such individual is not in the employment of such other person  
39 within the meaning of subsection (i) of this section.

40 (C) For the purpose of this subsection (h)(1), in the case of any in-  
41 dividual who is furnished by a crew leader to perform service in agricul-  
42 tural labor for any other person and who is not treated as an employee  
43 of such crew leader:

1 (i) Such other person and not the crew leader shall be treated as the  
2 employer of such individual; and

3 (ii) such other person shall be treated as having paid cash remuner-  
4 ation to such individual in an amount equal to the amount of cash re-  
5 munerated to such individual by the crew leader, either on the crew  
6 leader's own behalf or on behalf of such other person, for the service in  
7 agricultural labor performed for such other person.

8 (D) For the purposes of this subsection (h)(1) "crew leader" means  
9 an individual who:

10 (i) Furnishes individuals to perform service in agricultural labor for  
11 any other person;

12 (ii) pays, either on such individual's own behalf or on behalf of such  
13 other person, the individuals so furnished by such individual for the serv-  
14 ice in agricultural labor performed by them; and

15 (iii) has not entered into a written agreement with such other person  
16 under which such individual is designated as an employee of such other  
17 person.

18 (2) (A) Any employing unit which for calendar year 2007 and each  
19 calendar year thereafter: (i) In any calendar quarter in either the current  
20 or preceding calendar year paid for service in employment wages of  
21 \$1,500 or more, (ii) for some portion of a day in each of 20 different  
22 calendar weeks, whether or not such weeks were consecutive, in either  
23 the current or preceding calendar year, had in employment at least one  
24 individual, whether or not the same individual was in employment in each  
25 such day, or (iii) elects to have an unemployment tax account established  
26 at the time of initial registration in accordance with subsection (c) of  
27 K.S.A. 44-711, and amendments thereto.

28 (B) Employment of individuals to perform domestic service or agri-  
29 cultural labor and wages paid for such service or labor shall not be con-  
30 sidered in determining whether an employing unit meets the criteria of  
31 this subsection (h)(2).

32 (3) Any employing unit for which service is employment as defined  
33 in subsection (i)(3)(E) of this section.

34 (4) (A) Any employing unit, whether or not it is an employing unit  
35 under subsection (g) of this section, which acquires or in any manner  
36 succeeds to (i) substantially all of the employing enterprises, organization,  
37 trade or business, or (ii) substantially all the assets, of another employing  
38 unit which at the time of such acquisition was an employer subject to this  
39 act;

40 (B) any employing unit which is controlled substantially, either di-  
41 rectly or indirectly by legally enforceable means or otherwise, by the same  
42 interest or interests, whether or not such interest or interests are an em-  
43 ploying unit under subsection (g) of this section, which acquires or in any

- 1 manner succeeds to a portion of an employer's annual payroll, which is  
2 less than 100% of such employer's annual payroll, and which intends to  
3 continue the acquired portion as a going business.
- 4 (5) Any employing unit which paid cash remuneration of \$1,000 or  
5 more in any calendar quarter in the current or preceding calendar year  
6 to individuals employed in domestic service as defined in subsection (aa)  
7 of this section.
- 8 (6) Any employing unit which having become an employer under this  
9 subsection (h) has not, under subsection (b) of K.S.A. 44-711, and amend-  
10 ments thereto, ceased to be an employer subject to this act.
- 11 (7) Any employing unit which has elected to become fully subject to  
12 this act in accordance with subsection (c) of K.S.A. 44-711 and amend-  
13 ments thereto.
- 14 (8) Any employing unit not an employer by reason of any other par-  
15 agraph of this subsection (h), for which within either the current or pre-  
16 ceeding calendar year services in employment are or were performed with  
17 respect to which such employing unit is liable for any federal tax against  
18 which credit may be taken for contributions required to be paid into a  
19 state unemployment compensation fund; or which, as a condition for ap-  
20 proval of this act for full tax credit against the tax imposed by the federal  
21 unemployment tax act, is required, pursuant to such act, to be an "em-  
22 ployer" under this act.
- 23 (9) Any employing unit described in section 501(c)(3) of the federal  
24 internal revenue code of 1986 which is exempt from income tax under  
25 section 501(a) of the code that had four or more individuals in employ-  
26 ment for some portion of a day in each of 20 different weeks, whether or  
27 not such weeks were consecutive, within either the current or preceding  
28 calendar year, regardless of whether they were employed at the same  
29 moment of time.
- 30 (i) "Employment" means:
- 31 (1) Subject to the other provisions of this subsection, service, includ-  
32 ing service in interstate commerce, performed by
- 33 (A) Any active officer of a corporation; or
- 34 (B) any individual who, under the usual common law rules applicable  
35 in determining the employer-employee relationship, has the status of an  
36 employee; or
- 37 (C) any individual other than an individual who is an employee under  
38 subsection (i)(1)(A) or subsection (i)(1)(B) above who performs services  
39 for remuneration for any person:
- 40 (i) As an agent-driver or commission-driver engaged in distributing  
41 meat products, vegetable products, fruit products, bakery products, bev-  
42 erages (other than milk), or laundry or dry-cleaning services, for such  
43 individual's principal; or

1 (ii) as a traveling or city salesman, other than as an agent-driver or  
2 commission-driver, engaged upon a full-time basis in the solicitation on  
3 behalf of, and the transmission to, a principal (except for side-line sales  
4 activities on behalf of some other person) of orders from wholesalers,  
5 retailers, contractors, or operators of hotels, restaurants, or other similar  
6 establishments for merchandise for resale or supplies for use in their  
7 business operations.

8 For purposes of subsection (i)(1)(D), the term “employment” shall in-  
9 clude services described in paragraphs (i) and (ii) above only if:

10 (a) The contract of service contemplates that substantially all of the  
11 services are to be performed personally by such individual;

12 (b) the individual does not have a substantial investment in facilities  
13 used in connection with the performance of the services (other than in  
14 facilities for transportation); and

15 (c) the services are not in the nature of a single transaction that is not  
16 part of a continuing relationship with the person for whom the services  
17 are performed.

18 (2) The term “employment” shall include an individual’s entire serv-  
19 ice within the United States, even though performed entirely outside this  
20 state if,

21 (A) The service is not localized in any state, and

22 (B) the individual is one of a class of employees who are required to  
23 travel outside this state in performance of their duties, and

24 (C) the individual’s base of operations is in this state, or if there is no  
25 base of operations, then the place from which service is directed or con-  
26 trolled is in this state.

27 (3) The term “employment” shall also include:

28 (A) Services performed within this state but not covered by the pro-  
29 visions of subsection (i)(1) or subsection (i)(2) shall be deemed to be  
30 employment subject to this act if contributions are not required and paid  
31 with respect to such services under an unemployment compensation law  
32 of any other state or of the federal government.

33 (B) Services performed entirely without this state, with respect to no  
34 part of which contributions are required and paid under an unemploy-  
35 ment compensation law of any other state or of the federal government,  
36 shall be deemed to be employment subject to this act only if the individual  
37 performing such services is a resident of this state and the secretary ap-  
38 proved the election of the employing unit for whom such services are  
39 performed that the entire service of such individual shall be deemed to  
40 be employment subject to this act.

41 (C) Services covered by an arrangement pursuant to subsection (l) of  
42 K.S.A. 44-714, and amendments thereto, between the secretary and the  
43 agency charged with the administration of any other state or federal un-

1 employment compensation law, pursuant to which all services performed  
2 by an individual for an employing unit are deemed to be performed en-  
3 tirely within this state, shall be deemed to be employment if the secretary  
4 has approved an election of the employing unit for whom such services  
5 are performed, pursuant to which the entire service of such individual  
6 during the period covered by such election is deemed to be insured work.

7 (D) Services performed by an individual for wages or under any con-  
8 tract of hire shall be deemed to be employment subject to this act unless  
9 and until it is shown to the satisfaction of the secretary that: (i) Such  
10 individual has been and will continue to be free from control or direction  
11 over the performance of such services, both under the individual's con-  
12 tract of hire and in fact; and (ii) such service is either outside the usual  
13 course of the business for which such service is performed or that such  
14 service is performed outside of all the places of business of the enterprise  
15 for which such service is performed.

16 (E) Service performed by an individual in the employ of this state or  
17 any instrumentality thereof, any political subdivision of this state or any  
18 instrumentality thereof, or in the employ of an Indian tribe, as defined  
19 pursuant to section 3306(u) of the federal unemployment tax act, any  
20 instrumentality of more than one of the foregoing or any instrumentality  
21 which is jointly owned by this state or a political subdivision thereof or  
22 Indian tribes and one or more other states or political subdivisions of this  
23 or other states, provided that such service is excluded from "employment"  
24 as defined in the federal unemployment tax act by reason of section  
25 3306(c)(7) of that act and is not excluded from "employment" under  
26 subsection (i)(4)(A) of this section. For purposes of this section, the ex-  
27 clusions from employment in subsections (i)(4)(A) and (i)(4)(L) shall also  
28 be applicable to services performed in the employ of an Indian tribe.

29 (F) Service performed by an individual in the employ of a religious,  
30 charitable, educational or other organization which is excluded from the  
31 term "employment" as defined in the federal unemployment tax act solely  
32 by reason of section 3306(c)(8) of that act, and is not excluded from  
33 employment under paragraphs (I) through (M) of subsection (i)(4).

34 (G) The term "employment" shall include the service of an individual  
35 who is a citizen of the United States, performed outside the United States  
36 except in Canada, in the employ of an American employer (other than  
37 service which is deemed "employment" under the provisions of subsec-  
38 tion (i)(2) or subsection (i)(3) or the parallel provisions of another state's  
39 law), if:

40 (i) The employer's principal place of business in the United States is  
41 located in this state; or

42 (ii) the employer has no place of business in the United States, but

43 (A) The employer is an individual who is a resident of this state; or

- 1 (B) the employer is a corporation which is organized under the laws  
2 of this state; or
- 3 (C) the employer is a partnership or a trust and the number of the  
4 partners or trustees who are residents of this state is greater than the  
5 number who are residents of any other state; or
- 6 (iii) none of the criteria of paragraphs (i) and (ii) above of this sub-  
7 section (i)(3)(G) are met but the employer has elected coverage in this  
8 state or, the employer having failed to elect coverage in any state, the  
9 individual has filed a claim for benefits, based on such service, under the  
10 law of this state.
- 11 (H) An “American employer,” for purposes of subsection (i)(3)(G),  
12 means a person who is:
- 13 (i) An individual who is a resident of the United States; or
- 14 (ii) a partnership if  $\frac{2}{3}$  or more of the partners are residents of the  
15 United States; or
- 16 (iii) a trust, if all of the trustees are residents of the United States; or
- 17 (iv) a corporation organized under the laws of the United States or  
18 of any state.
- 19 (I) Notwithstanding subsection (i)(2) of this section, all service per-  
20 formed by an officer or member of the crew of an American vessel or  
21 American aircraft on or in connection with such vessel or aircraft, if the  
22 operating office, from which the operations of such vessel or aircraft op-  
23 erating within, or within and without, the United States are ordinarily and  
24 regularly supervised, managed, directed and controlled is within this state.
- 25 (J) Notwithstanding any other provisions of this subsection (i), service  
26 with respect to which a tax is required to be paid under any federal law  
27 imposing a tax against which credit may be taken for contributions re-  
28 quired to be paid into a state unemployment compensation fund or which  
29 as a condition for full tax credit against the tax imposed by the federal  
30 unemployment tax act is required to be covered under this act.
- 31 (K) Domestic service in a private home, local college club or local  
32 chapter of a college fraternity or sorority performed for a person who  
33 paid cash remuneration of \$1,000 or more in any calendar quarter in the  
34 current calendar year or the preceding calendar year to individuals em-  
35 ployed in such domestic service.
- 36 (4) The term “employment” shall not include: (A) Service performed  
37 in the employ of an employer specified in subsection (h)(3) of this section  
38 if such service is performed by an individual in the exercise of duties:
- 39 (i) As an elected official;
- 40 (ii) as a member of a legislative body, or a member of the judiciary,  
41 of a state, political subdivision or of an Indian tribe;
- 42 (iii) as a member of the state national guard or air national guard;
- 43 (iv) as an employee serving on a temporary basis in case of fire, storm,

1 snow, earthquake, flood or similar emergency;

2 (v) in a position which, under or pursuant to the laws of this state or  
3 tribal law, is designated as a major nontenured policymaking or advisory  
4 position or as a policymaking or advisory position the performance of the  
5 duties of which ordinarily does not require more than eight hours per  
6 week;

7 (B) service with respect to which unemployment compensation is  
8 payable under an unemployment compensation system established by an  
9 act of congress;

10 (C) service performed by an individual in the employ of such indi-  
11 vidual's son, daughter or spouse, and service performed by a child under  
12 the age of 21 years in the employ of such individual's father or mother;

13 (D) service performed in the employ of the United States govern-  
14 ment or an instrumentality of the United States exempt under the con-  
15 stitution of the United States from the contributions imposed by this act,  
16 except that to the extent that the congress of the United States shall  
17 permit states to require any instrumentality of the United States to make  
18 payments into an unemployment fund under a state unemployment com-  
19 pensation law, all of the provisions of this act shall be applicable to such  
20 instrumentalities, and to services performed for such instrumentalities, in  
21 the same manner, to the same extent and on the same terms as to all  
22 other employers, employing units, individuals and services. If this state  
23 shall not be certified for any year by the federal security agency under  
24 section 3304(c) of the federal internal revenue code of 1986, the payments  
25 required of such instrumentalities with respect to such year shall be re-  
26 funded by the secretary from the fund in the same manner and within  
27 the same period as is provided in subsection (f) of K.S.A. 44-717, and  
28 amendments thereto, with respect to contributions erroneously collected;

29 (E) service covered by an arrangement between the secretary and  
30 the agency charged with the administration of any other state or federal  
31 unemployment compensation law pursuant to which all services per-  
32 formed by an individual for an employing unit during the period covered  
33 by such employing unit's duly approved election, are deemed to be per-  
34 formed entirely within the jurisdiction of such other state or federal  
35 agency;

36 (F) service performed by an individual under the age of 18 in the  
37 delivery or distribution of newspapers or shopping news, not including  
38 delivery or distribution to any point for subsequent delivery or distribu-  
39 tion;

40 (G) service performed by an individual for an employing unit as an  
41 insurance agent or as an insurance solicitor, if all such service performed  
42 by such individual for such employing unit is performed for remuneration  
43 solely by way of commission;



1 (H) service performed in any calendar quarter in the employ of any  
2 organization exempt from income tax under section 501(a) of the federal  
3 internal revenue code of 1986 (other than an organization described in  
4 section 401(a) or under section 521 of such code) if the remuneration for  
5 such service is less than \$50. In construing the application of the term  
6 “employment,” if services performed during  $\frac{1}{2}$  or more of any pay period  
7 by an individual for the person employing such individual constitute em-  
8 ployment, all the services of such individual for such period shall be  
9 deemed to be employment; but if the services performed during more  
10 than  $\frac{1}{2}$  of any such pay period by an individual for the person employing  
11 such individual do not constitute employment, then none of the services  
12 of such individual for such period shall be deemed to be employment. As  
13 used in this subsection (i)(4)(H) the term “pay period” means a period  
14 (of not more than 31 consecutive days) for which a payment of remuneration  
15 is ordinarily made to the individual by the person employing such  
16 individual. This subsection (i)(4)(H) shall not be applicable with respect  
17 to services with respect to which unemployment compensation is payable  
18 under an unemployment compensation system established by an act of  
19 congress;

20 (I) services performed in the employ of a church or convention or  
21 association of churches, or an organization which is operated primarily  
22 for religious purposes and which is operated, supervised, controlled, or  
23 principally supported by a church or convention or association of  
24 churches;

25 (J) service performed by a duly ordained, commissioned, or licensed  
26 minister of a church in the exercise of such individual’s ministry or by a  
27 member of a religious order in the exercise of duties required by such  
28 order;

29 (K) service performed in a facility conducted for the purpose of carrying out a program of:

30 (i) Rehabilitation for individuals whose earning capacity is impaired  
31 by age or physical or mental deficiency or injury, or

32 (ii) providing remunerative work for individuals who because of their  
33 impaired physical or mental capacity cannot be readily absorbed in the  
34 competitive labor market, by an individual receiving such rehabilitation  
35 or remunerative work;

36 (L) service performed as part of an employment work-relief or work-  
37 training program assisted or financed in whole or in part by any federal  
38 agency or an agency of a state or political subdivision thereof or of an  
39 Indian tribe, by an individual receiving such work relief or work training;

40 (M) service performed by an inmate of a custodial or correctional  
41 institution;

42 (N) service performed, in the employ of a school, college, or univer-

- 1 sity, if such service is performed by a student who is enrolled and is  
2 regularly attending classes at such school, college or university;
- 3 (O) service performed by an individual who is enrolled at a nonprofit  
4 or public educational institution which normally maintains a regular fac-  
5 ulty and curriculum and normally has a regularly organized body of stu-  
6 dents in attendance at the place where its educational activities are carried  
7 on as a student in a full-time program, taken for credit at such institution,  
8 which combines academic instruction with work experience, if such serv-  
9 ice is an integral part of such program, and such institution has so certified  
10 to the employer, except that this subsection (i)(4)(O) shall not apply to  
11 service performed in a program established for or on behalf of an em-  
12 ployer or group of employers;
- 13 (P) service performed in the employ of a hospital licensed, certified  
14 or approved by the secretary of health and environment, if such service  
15 is performed by a patient of the hospital;
- 16 (Q) services performed as a qualified real estate agent. As used in  
17 this subsection (i)(4)(Q) the term “qualified real estate agent” means any  
18 individual who is licensed by the Kansas real estate commission as a sa-  
19 lesperson under the real estate brokers’ and salespersons’ license act and  
20 for whom:
- 21 (i) Substantially all of the remuneration, whether or not paid in cash,  
22 for the services performed by such individual as a real estate salesperson  
23 is directly related to sales or other output, including the performance of  
24 services, rather than to the number of hours worked; and
- 25 (ii) the services performed by the individual are performed pursuant  
26 to a written contract between such individual and the person for whom  
27 the services are performed and such contract provides that the individual  
28 will not be treated as an employee with respect to such services for state  
29 tax purposes;
- 30 (R) services performed for an employer by an extra in connection  
31 with any phase of motion picture or television production or television  
32 commercials for less than 14 days during any calendar year. As used in  
33 this subsection, the term “extra” means an individual who pantomimes in  
34 the background, adds atmosphere to the set and performs such actions  
35 without speaking and “employer” shall not include any employer which  
36 is a governmental entity or any employer described in section 501(c)(3)  
37 of the federal internal revenue code of 1986 which is exempt from income  
38 taxation under section 501(a) of the code;
- 39 (S) services performed by an oil and gas contract pumper. As used in  
40 this subsection (i)(4)(S), “oil and gas contract pumper” means a person  
41 performing pumping and other services on one or more oil or gas leases,  
42 or on both oil and gas leases, relating to the operation and maintenance  
43 of such oil and gas leases, on a contractual basis for the operators of such

1 oil and gas leases and “services” shall not include services performed for  
2 a governmental entity or any organization described in section 501(c)(3)  
3 of the federal internal revenue code of 1986 which is exempt from income  
4 taxation under section 501(a) of the code;

5 (T) service not in the course of the employer’s trade or business per-  
6 formed in any calendar quarter by an employee, unless the cash remu-  
7 nation paid for such service is \$200 or more and such service is per-  
8 formed by an individual who is regularly employed by such employer to  
9 perform such service. For purposes of this paragraph, an individual shall  
10 be deemed to be regularly employed by an employer during a calendar  
11 quarter only if:

12 (i) On each of some 24 days during such quarter such individual per-  
13 forms for such employer for some portion of the day service not in the  
14 course of the employer’s trade or business, or

15 (ii) such individual was regularly employed, as determined under sub-  
16 paragraph (i), by such employer in the performance of such service during  
17 the preceding calendar quarter.

18 Such excluded service shall not include any services performed for an  
19 employer which is a governmental entity or any employer described in  
20 section 501(c)(3) of the federal internal revenue code of 1986 which is  
21 exempt from income taxation under section 501(a) of the code;

22 (U) service which is performed by any person who is a member of a  
23 limited liability company and which is performed as a member or manager  
24 of that limited liability company; and

25 (V) services performed as a qualified direct seller. The term “direct  
26 seller” means any person if:

27 (i) Such person:

28 (a) is engaged in the trade or business of selling or soliciting the sale  
29 of consumer products to any buyer on a buy-sell basis or a deposit-com-  
30 mission basis for resale, by the buyer or any other person, in the home  
31 or otherwise rather than in a permanent retail establishment; or

32 (b) is engaged in the trade or business of selling or soliciting the sale  
33 of consumer products in the home or otherwise than in a permanent retail  
34 establishment;

35 (ii) substantially all the remuneration whether or not paid in cash for  
36 the performance of the services described in subparagraph (i) is directly  
37 related to sales or other output including the performance of services  
38 rather than to the number of hours worked;

39 (iii) the services performed by the person are performed pursuant to  
40 a written contract between such person and the person for whom the  
41 services are performed and such contract provides that the person will  
42 not be treated as an employee for federal and state tax purposes;

43 (iv) for purposes of this act, a sale or a sale resulting exclusively from

1 a solicitation made by telephone, mail, or other telecommunications  
2 method, or other nonpersonal method does not satisfy the requirements  
3 of this subsection;

4 (W) service performed as an election official or election worker, if  
5 the amount of remuneration received by the individual during the cal-  
6 endar year for services as an election official or election worker is less  
7 than \$1,000; ~~and~~

8 (X) service performed by agricultural workers who are aliens admit-  
9 ted to the United States to perform labor pursuant to section 1101  
10 (a)(15)(H)(ii)(a) of the immigration and nationality act; *and*

11 (Y) *service performed by an owner-operator of a motor vehicle that*  
12 *is leased or contracted to a licensed motor carrier with the services of a*  
13 *driver and is not treated under the terms of the lease agreement or con-*  
14 *tract with the licensed motor carrier as an employee for purposes of the*  
15 *federal insurance contribution act, 26 U.S.C. § 3101 et seq., the federal*  
16 *social security act, 42 U.S.C. § 301 et seq., the federal unemployment tax*  
17 *act, 26 U.S.C. § 3301 et seq., and the federal statutes prescribing income*  
18 *tax withholding at the source, 26 U.S.C. § 3401 et seq. Employees or*  
19 *agents of the owner-operator shall not be considered employees of the*  
20 *licensed motor carrier for purposes of employment security taxation or*  
21 *compensation. As used in this subsection (Y), the following definitions*  
22 *apply: (i) "Motor vehicle" means any automobile, truck-trailer, semi-*  
23 *trailer, tractor, motor bus or any other self-propelled or motor-driven*  
24 *vehicle used upon any of the public highways of Kansas for the purpose*  
25 *of transporting persons or property; (ii) "licensed motor carrier" means*  
26 *any person, firm, corporation or other business entity that holds a certif-*  
27 *icate of convenience and necessity or a certificate of public service from*  
28 *the state corporation commission or is required to register motor carrier*  
29 *equipment pursuant to 49 U.S.C. § 14504; and (iii) "owner-operator"*  
30 *means a person, firm, corporation or other business entity that is the*  
31 *owner of a single motor vehicle that is driven exclusively by the owner*  
32 *under a lease agreement or contract with a licensed motor carrier.*

33 (j) "Employment office" means any office operated by this state and  
34 maintained by the secretary of labor for the purpose of assisting persons  
35 to become employed.

36 (k) "Fund" means the employment security fund established by this  
37 act, to which all contributions and reimbursement payments required and  
38 from which all benefits provided under this act shall be paid and including  
39 all money received from the federal government as reimbursements pur-  
40 suant to section 204 of the federal-state extended compensation act of  
41 1970, and amendments thereto.

42 (l) "State" includes, in addition to the states of the United States of  
43 America, any dependency of the United States, the Commonwealth of

1 Puerto Rico, the District of Columbia and the Virgin Islands.

2 (m) "Unemployment." An individual shall be deemed "unemployed"  
3 with respect to any week during which such individual performs no serv-  
4 ices and with respect to which no wages are payable to such individual,  
5 or with respect to any week of less than full-time work if the wages payable  
6 to such individual with respect to such week are less than such individual's  
7 weekly benefit amount.

8 (n) "Employment security administration fund" means the fund es-  
9 tablished by this act, from which administrative expenses under this act  
10 shall be paid.

11 (o) "Wages" means all compensation for services, including commis-  
12 sions, bonuses, back pay and the cash value of all remuneration, including  
13 benefits, paid in any medium other than cash. The reasonable cash value  
14 of remuneration in any medium other than cash, shall be estimated and  
15 determined in accordance with rules and regulations prescribed by the  
16 secretary. Compensation payable to an individual which has not been  
17 actually received by that individual within 21 days after the end of the  
18 pay period in which the compensation was earned shall be considered to  
19 have been paid on the 21st day after the end of that pay period. Effective  
20 January 1, 1986, gratuities, including tips received from persons other  
21 than the employing unit, shall be considered wages when reported in  
22 writing to the employer by the employee. Employees must furnish a writ-  
23 ten statement to the employer, reporting all tips received if they total \$20  
24 or more for a calendar month whether the tips are received directly from  
25 a person other than the employer or are paid over to the employee by  
26 the employer. This includes amounts designated as tips by a customer  
27 who uses a credit card to pay the bill. Notwithstanding the other provi-  
28 sions of this subsection (o), wages paid in back pay awards or settlements  
29 shall be allocated to the week or weeks and reported in the manner as  
30 specified in the award or agreement, or, in the absence of such specificity  
31 in the award or agreement, such wages shall be allocated to the week or  
32 weeks in which such wages, in the judgment of the secretary, would have  
33 been paid. The term "wages" shall not include:

34 (1) That part of the remuneration which has been paid in a calendar  
35 year to an individual by an employer or such employer's predecessor in  
36 excess of \$3,000 for all calendar years prior to 1972, \$4,200 for the cal-  
37 endar years 1972 to 1977, inclusive, \$6,000 for calendar years 1978 to  
38 1982, inclusive, \$7,000 for the calendar year 1983, and \$8,000 with re-  
39 spect to employment during any calendar year following 1983, except that  
40 if the definition of the term "wages" as contained in the federal unem-  
41 ployment tax act is amended to include remuneration in excess of \$8,000  
42 paid to an individual by an employer under the federal act during any  
43 calendar year, wages shall include remuneration paid in a calendar year

1 to an individual by an employer subject to this act or such employer's  
2 predecessor with respect to employment during any calendar year up to  
3 an amount equal to the dollar limitation specified in the federal unem-  
4 ployment tax act. For the purposes of this subsection (o)(1), the term  
5 "employment" shall include service constituting employment under any  
6 employment security law of another state or of the federal government;

7 (2) the amount of any payment (including any amount paid by an  
8 employing unit for insurance or annuities, or into a fund, to provide for  
9 any such payment) made to, or on behalf of, an employee or any of such  
10 employee's dependents under a plan or system established by an em-  
11 ployer which makes provisions for employees generally, for a class or  
12 classes of employees or for such employees or a class or classes of em-  
13 ployees and their dependents, on account of (A) sickness or accident  
14 disability, except in the case of any payment made to an employee or such  
15 employee's dependents, this subparagraph shall exclude from the term  
16 "wages" only payments which are received under a workers compensation  
17 law. Any third party which makes a payment included as wages by reason  
18 of this subparagraph (2)(A) shall be treated as the employer with respect  
19 to such wages, or (B) medical and hospitalization expenses in connection  
20 with sickness or accident disability, or (C) death;

21 (3) any payment on account of sickness or accident disability, or med-  
22 ical or hospitalization expenses in connection with sickness or accident  
23 disability, made by an employer to, or on behalf of, an employee after the  
24 expiration of six calendar months following the last calendar month in  
25 which the employee worked for such employer;

26 (4) any payment made to, or on behalf of, an employee or such em-  
27 ployee's beneficiary:

28 (A) From or to a trust described in section 401(a) of the federal in-  
29 ternal revenue code of 1986 which is exempt from tax under section  
30 501(a) of the federal internal revenue code of 1986 at the time of such  
31 payment unless such payment is made to an employee of the trust as  
32 remuneration for services rendered as such employee and not as a ben-  
33 efiary of the trust;

34 (B) under or to an annuity plan which, at the time of such payment,  
35 is a plan described in section 403(a) of the federal internal revenue code  
36 of 1986;

37 (C) under a simplified employee pension as defined in section  
38 408(k)(1) of the federal internal revenue code of 1986, other than any  
39 contribution described in section 408(k)(6) of the federal internal revenue  
40 code of 1986;

41 (D) under or to an annuity contract described in section 403(b) of  
42 the federal internal revenue code of 1986, other than a payment for the  
43 purchase of such contract which was made by reason of a salary reduction

- 1 agreement whether evidenced by a written instrument or otherwise;
- 2 (E) under or to an exempt governmental deferred compensation plan  
3 as defined in section 3121(v)(3) of the federal internal revenue code of  
4 1986;
- 5 (F) to supplement pension benefits under a plan or trust described  
6 in any of the foregoing provisions of this subparagraph to take into ac-  
7 count some portion or all of the increase in the cost of living, as deter-  
8 mined by the secretary of labor, since retirement but only if such sup-  
9 plemental payments are under a plan which is treated as a welfare plan  
10 under section 3(2)(B)(ii) of the federal employee retirement income se-  
11 curity act of 1974; or
- 12 (G) under a cafeteria plan within the meaning of section 125 of the  
13 federal internal revenue code of 1986;
- 14 (5) the payment by an employing unit (without deduction from the  
15 remuneration of the employee) of the tax imposed upon an employee  
16 under section 3101 of the federal internal revenue code of 1986 with  
17 respect to remuneration paid to an employee for domestic service in a  
18 private home of the employer or for agricultural labor;
- 19 (6) remuneration paid in any medium other than cash to an employee  
20 for service not in the course of the employer's trade or business;
- 21 (7) remuneration paid to or on behalf of an employee if and to the  
22 extent that at the time of the payment of such remuneration it is reason-  
23 able to believe that a corresponding deduction is allowable under section  
24 217 of the federal internal revenue code of 1986 relating to moving ex-  
25 penses;
- 26 (8) any payment or series of payments by an employer to an employee  
27 or any of such employee's dependents which is paid:
- 28 (A) Upon or after the termination of an employee's employment rela-  
29 tionship because of (i) death or (ii) retirement for disability; and
- 30 (B) under a plan established by the employer which makes provisions  
31 for employees generally, a class or classes of employees or for such em-  
32 ployees or a class or classes of employees and their dependents, other  
33 than any such payment or series of payments which would have been paid  
34 if the employee's employment relationship had not been so terminated;
- 35 (9) remuneration for agricultural labor paid in any medium other than  
36 cash;
- 37 (10) any payment made, or benefit furnished, to or for the benefit of  
38 an employee if at the time of such payment or such furnishing it is rea-  
39 sonable to believe that the employee will be able to exclude such payment  
40 or benefit from income under section 129 of the federal internal revenue  
41 code of 1986 which relates to dependent care assistance programs;
- 42 (11) the value of any meals or lodging furnished by or on behalf of  
43 the employer if at the time of such furnishing it is reasonable to believe

1 that the employee will be able to exclude such items from income under  
2 section 119 of the federal internal revenue code of 1986;

3 (12) any payment made by an employer to a survivor or the estate of  
4 a former employee after the calendar year in which such employee died;

5 (13) any benefit provided to or on behalf of an employee if at the  
6 time such benefit is provided it is reasonable to believe that the employee  
7 will be able to exclude such benefit from income under section 74(c), 117  
8 or 132 of the federal internal revenue code of 1986;

9 (14) any payment made, or benefit furnished, to or for the benefit of  
10 an employee, if at the time of such payment or such furnishing it is rea-  
11 sonable to believe that the employee will be able to exclude such payment  
12 or benefit from income under section 127 of the federal internal revenue  
13 code of 1986 relating to educational assistance to the employee; or

14 (15) any payment made to or for the benefit of an employee if at the  
15 time of such payment it is reasonable to believe that the employee will  
16 be able to exclude such payment from income under section 106(d) of  
17 the federal internal revenue code of 1986 relating to health savings ac-  
18 counts.

19 Nothing in any paragraph of subsection (o), other than paragraph (1),  
20 shall exclude from the term “wages”: (1) Any employer contribution un-  
21 der a qualified cash or deferred arrangement, as defined in section 401(k)  
22 of the federal internal revenue code of 1986, to the extent that such  
23 contribution is not included in gross income by reason of section 402(a)(8)  
24 of the federal internal revenue code of 1986; or (2) any amount treated  
25 as an employer contribution under section 414(h)(2) of the federal inter-  
26 nal revenue code of 1986.

27 Any amount deferred under a nonqualified deferred compensation  
28 plan shall be taken into account for purposes of this section as of the later  
29 of when the services are performed or when there is no substantial risk  
30 of forfeiture of the rights to such amount. Any amount taken into account  
31 as wages by reason of this paragraph, and the income attributable thereto,  
32 shall not thereafter be treated as wages for purposes of this section. For  
33 purposes of this paragraph, the term “nonqualified deferred compensa-  
34 tion plan” means any plan or other arrangement for deferral of compen-  
35 sation other than a plan described in subsection (o)(4).

36 (p) “Week” means such period or periods of seven consecutive cal-  
37 endar days, as the secretary may by rules and regulations prescribe.

38 (q) “Calendar quarter” means the period of three consecutive cal-  
39 endar months ending March 31, June 30, September 30 or December  
40 31, or the equivalent thereof as the secretary may by rules and regulations  
41 prescribe.

42 (r) “Insured work” means employment for employers.

43 (s) “Approved training” means any vocational training course or



1 course in basic education skills approved by the secretary or a person or  
2 persons designated by the secretary.

3 (t) “American vessel” or “American aircraft” means any vessel or air-  
4 craft documented or numbered or otherwise registered under the laws  
5 of the United States; and any vessel or aircraft which is neither docu-  
6 mented or numbered or otherwise registered under the laws of the  
7 United States nor documented under the laws of any foreign country, if  
8 its crew performs service solely for one or more citizens or residents of  
9 the United States or corporations organized under the laws of the United  
10 States or of any state.

11 (u) “Institution of higher education,” for the purposes of this section,  
12 means an educational institution which:

13 (1) Admits as regular students only individuals having a certificate of  
14 graduation from a high school, or the recognized equivalent of such a  
15 certificate;

16 (2) is legally authorized in this state to provide a program of education  
17 beyond high school;

18 (3) provides an educational program for which it awards a bachelor’s  
19 or higher degree, or provides a program which is acceptable for full credit  
20 toward such a degree, a program of postgraduate or postdoctoral studies,  
21 or a program of training to prepare students for gainful employment in a  
22 recognized occupation; and

23 (4) is a public or other nonprofit institution.

24 Notwithstanding any of the foregoing provisions of this subsection (u),  
25 all colleges and universities in this state are institutions of higher educa-  
26 tion for purposes of this section, except that no college, university, junior  
27 college or other postsecondary school or institution which is operated by  
28 the federal government or any agency thereof shall be an institution of  
29 higher education for purposes of the employment security law.

30 (v) “Educational institution” means any institution of higher educa-  
31 tion, as defined in subsection (u) of this section, or any institution, except  
32 private for profit institutions, in which participants, trainees or students  
33 are offered an organized course of study or training designed to transfer  
34 to them knowledge, skills, information, doctrines, attitudes or abilities  
35 from, by or under the guidance of an instructor or teacher and which is  
36 approved, licensed or issued a permit to operate as a school by the state  
37 department of education or other government agency that is authorized  
38 within the state to approve, license or issue a permit for the operation of  
39 a school or to an Indian tribe in the operation of an educational institution.  
40 The courses of study or training which an educational institution offers  
41 may be academic, technical, trade or preparation for gainful employment  
42 in a recognized occupation.

43 (w) (1) “Agricultural labor” means any remunerated service:

- 1 (A) On a farm, in the employ of any person, in connection with cul-  
2 tivating the soil, or in connection with raising or harvesting any agricul-  
3 tural or horticultural commodity, including the raising, shearing, feeding,  
4 caring for, training, and management of livestock, bees, poultry, and fur-  
5 bearing animals and wildlife.
- 6 (B) In the employ of the owner or tenant or other operator of a farm,  
7 in connection with the operating, management, conservation, improve-  
8 ment, or maintenance of such farm and its tools and equipment, or in  
9 salvaging timber or clearing land of brush and other debris left by a hur-  
10 ricane, if the major part of such service is performed on a farm.
- 11 (C) In connection with the production or harvesting of any commod-  
12 ity defined as an agricultural commodity in section (15)(g) of the agri-  
13 cultural marketing act, as amended (46 Stat. 1500, sec. 3; 12 U.S.C. 1141j)  
14 or in connection with the ginning of cotton, or in connection with the  
15 operation or maintenance of ditches, canals, reservoirs or waterways, not  
16 owned or operated for profit, used exclusively for supplying and storing  
17 water for farming purposes.
- 18 (D) (i) In the employ of the operator of a farm in handling, planting,  
19 drying, packing, packaging, processing, freezing, grading, storing, or de-  
20 livering to storage or to market or to a carrier for transportation to market,  
21 in its unmanufactured state, any agricultural or horticultural commodity;  
22 but only if such operator produced more than  $\frac{1}{2}$  of the commodity with  
23 respect to which such service is performed;
- 24 (ii) in the employ of a group of operators of farms (or a cooperative  
25 organization of which such operators are members) in the performance  
26 of service described in paragraph (i) above of this subsection (w)(1)(D),  
27 but only if such operators produced more than  $\frac{1}{2}$  of the commodity with  
28 respect to which such service is performed;
- 29 (iii) the provisions of paragraphs (i) and (ii) above of this subsection  
30 (w)(1)(D) shall not be deemed to be applicable with respect to service  
31 performed in connection with commercial canning or commercial freez-  
32 ing or in connection with any agricultural or horticultural commodity after  
33 its delivery to a terminal market for distribution for consumption.
- 34 (E) On a farm operated for profit if such service is not in the course  
35 of the employer's trade or business.
- 36 (2) "Agricultural labor" does not include service performed prior to  
37 January 1, 1980, by an individual who is an alien admitted to the United  
38 States to perform service in agricultural labor pursuant to sections 214(c)  
39 and 101(a)(15)(H) of the federal immigration and nationality act.
- 40 (3) As used in this subsection (w), the term "farm" includes stock,  
41 dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations,  
42 ranches, nurseries, ranges, greenhouses, or other similar structures used  
43 primarily for the raising of agricultural or horticultural commodities, and

1 orchards.

2 (4) For the purpose of this section, if an employing unit does not  
3 maintain sufficient records to separate agricultural labor from other em-  
4 ployment, all services performed during any pay period by an individual  
5 for the person employing such individual shall be deemed to be agricul-  
6 tural labor if services performed during  $\frac{1}{2}$  or more of such pay period  
7 constitute agricultural labor; but if the services performed during more  
8 than  $\frac{1}{2}$  of any such pay period by an individual for the person employing  
9 such individual do not constitute agricultural labor, then none of the serv-  
10 ices of such individual for such period shall be deemed to be agricultural  
11 labor. As used in this subsection (w), the term “pay period” means a  
12 period of not more than 31 consecutive days for which a payment of  
13 remuneration is ordinarily made to the individual by the person employ-  
14 ing such individual.

15 (x) “Reimbursing employer” means any employer who makes pay-  
16 ments in lieu of contributions to the employment security fund as pro-  
17 vided in subsection (e) of K.S.A. 44-710 and amendments thereto.

18 (y) “Contributing employer” means any employer other than a re-  
19 imbursing employer or rated governmental employer.

20 (z) “Wage combining plan” means a uniform national arrangement  
21 approved by the United States secretary of labor in consultation with the  
22 state unemployment compensation agencies and in which this state shall  
23 participate, whereby wages earned in one or more states are transferred  
24 to another state, called the “paying state,” and combined with wages in  
25 the paying state, if any, for the payment of benefits under the laws of the  
26 paying state and as provided by an arrangement so approved by the  
27 United States secretary of labor.

28 (aa) “Domestic service” means any service for a person in the oper-  
29 ation and maintenance of a private household, local college club or local  
30 chapter of a college fraternity or sorority, as distinguished from service  
31 as an employee in the pursuit of an employer’s trade, occupation, pro-  
32 fession, enterprise or vocation.

33 (bb) “Rated governmental employer” means any governmental entity  
34 which elects to make payments as provided by K.S.A. 44-710d and  
35 amendments thereto.

36 (cc) “Benefit cost payments” means payments made to the employ-  
37 ment security fund by a governmental entity electing to become a rated  
38 governmental employer.

39 (dd) “Successor employer” means any employer, as described in sub-  
40 section (h) of this section, which acquires or in any manner succeeds to  
41 (1) substantially all of the employing enterprises, organization, trade or  
42 business of another employer or (2) substantially all the assets of another  
43 employer.

1 (ee) “Predecessor employer” means an employer, as described in  
2 subsection (h) of this section, who has previously operated a business or  
3 portion of a business with employment to which another employer has  
4 succeeded.

5 (ff) “Lessor employing unit” means any independently established  
6 business entity which engages in the business of providing leased em-  
7 ployees to a client lessee.

8 (gg) “Client lessee” means any individual, organization, partnership,  
9 corporation or other legal entity leasing employees from a lessor employ-  
10 ing unit.

11 (hh) “Qualifying injury” means a personal injury by accident arising  
12 out of and in the course of employment within the coverage of the Kansas  
13 workers compensation act, K.S.A. 44-501 et seq., and amendments  
14 thereto.

15 Sec. 28. K.S.A. 2006 Supp. 45-229 is hereby amended to read as  
16 follows: 45-229. (a) It is the intent of the legislature that exceptions to  
17 disclosure under the open records act shall be created or maintained only  
18 if:

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

21 (2) the public record is necessary for the effective and efficient ad-  
22 ministration of a governmental program; or

23 (3) the public record affects confidential information. The mainte-  
24 nance or creation of an exception to disclosure must be compelled as  
25 measured by these criteria. Further, the legislature finds that the public  
26 has a right to have access to public records unless the criteria in this  
27 section for restricting such access to a public record are met and the  
28 criteria are considered during legislative review in connection with the  
29 particular exception to disclosure to be significant enough to override the  
30 strong public policy of open government. To strengthen the policy of open  
31 government, the legislature shall consider the criteria in this section be-  
32 fore enacting an exception to disclosure.

33 (b) Subject to the provisions of subsection (h), all exceptions to dis-  
34 closure in existence on July 1, 2000, shall expire on July 1, 2005, and any  
35 new exception to disclosure or substantial amendment of an existing ex-  
36 ception shall expire on July 1 of the fifth year after enactment of the new  
37 exception or substantial amendment, unless the legislature acts to con-  
38 tinue the exception. A law that enacts a new exception or substantially  
39 amends an existing exception shall state that the exception expires at the  
40 end of five years and that the exception shall be reviewed by the legis-  
41 lature before the scheduled date.

42 (c) For purposes of this section, an exception is substantially amended  
43 if the amendment expands the scope of the exception to include more

1 records or information. An exception is not substantially amended if the  
2 amendment narrows the scope of the exception.

3 (d) This section is not intended to repeal an exception that has been  
4 amended following legislative review before the scheduled repeal of the  
5 exception if the exception is not substantially amended as a result of the  
6 review.

7 (e) In the year before the expiration of an exception, the revisor of  
8 statutes shall certify to the president of the senate and the speaker of the  
9 house of representatives, by July 15, the language and statutory citation  
10 of each exception which will expire in the following year which meets the  
11 criteria of an exception as defined in this section. Any exception that is  
12 not identified and certified to the president of the senate and the speaker  
13 of the house of representatives is not subject to legislative review and  
14 shall not expire. If the revisor of statutes fails to certify an exception that  
15 the revisor subsequently determines should have been certified, the re-  
16 visor shall include the exception in the following year's certification after  
17 that determination.

18 (f) "Exception" means any provision of law which creates an excep-  
19 tion to disclosure or limits disclosure under the open records act pursuant  
20 to K.S.A. 45-221, and amendments thereto, or pursuant to any other  
21 provision of law.

22 (g) A provision of law which creates or amends an exception to dis-  
23 closure under the open records law shall not be subject to review and  
24 expiration under this act if such provision:

- 25 (1) Is required by federal law;  
26 (2) applies solely to the legislature or to the state court system.

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

- 29 (A) What specific records are affected by the exception;  
30 (B) whom does the exception uniquely affect, as opposed to the gen-  
31 eral public;

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

33 (D) whether the information contained in the records may be ob-  
34 tained readily by alternative means and how it may be obtained;

35 (2) An exception may be created or maintained only if it serves an  
36 identifiable public purpose and may be no broader than is necessary to  
37 meet the public purpose it serves. An identifiable public purpose is served  
38 if the legislature finds that the purpose is sufficiently compelling to over-  
39 ride the strong public policy of open government and cannot be accom-  
40 plished without the exception and if the exception:

- 41 (A) Allows the effective and efficient administration of a govern-  
42 mental program, which administration would be significantly impaired  
43 without the exception;

1 (B) protects information of a sensitive personal nature concerning  
2 individuals, the release of which information would be defamatory to such  
3 individuals or cause unwarranted damage to the good name or reputation  
4 of such individuals or would jeopardize the safety of such individuals.  
5 Only information that would identify the individuals may be excepted  
6 under this paragraph; or

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

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

18 (i) Exceptions contained in the following statutes as certified by the  
19 revisor of statutes to the president of the senate and the speaker of the  
20 house of representatives pursuant to subsection (e) of this section on June  
21 1, 2004, are hereby continued in existence until July 1, 2010, at which  
22 time such exceptions shall expire: 1-401, 2-1202, 5-512, 9-1137, 9-1712,  
23 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-  
24 4516, 16-715, 16a-2-304, 17-1312e, 17-2227, 17-5832, 17-7503, 17-7505,  
25 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-  
26 4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-  
27 251, 38-1508, 38-1520, 38-1565, 38-1609, 38-1610, 38-1618, 38-1664, 39-  
28 709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20,  
29 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012,  
30 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-  
31 510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, 45-221,  
32 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-  
33 406, 49-427, 55-1,102, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 58-4114,  
34 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, ~~60-3335~~, 60-3336, 65-  
35 102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-  
36 1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-  
37 1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467,  
38 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-  
39 3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4608, 65-4922, 65-  
40 4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05,  
41 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a,  
42 66-2010, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-  
43 8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515,

1 74-7308, 74-7338, 74-7405a, 74-8104, 74-8307, 74-8705, 74-8804, 74-  
2 9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-  
3 5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-  
4 12b11, 76-3305, 79-1119, 79-1437f, 79-15,118, 79-3234, 79-3395,  
5 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

6 (j) Exceptions contained in the following statutes as certified by the  
7 revisor of statutes to the president of the senate and the speaker of the  
8 house of representatives pursuant to subsection (e) of this section on June  
9 1, 2005, are hereby continued in existence until July 1, 2011, at which  
10 time such exceptions shall expire: 1-501, 9-1303, 12-4516a, 38-1692, 39-  
11 970, 40-4913, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

12 Sec. 29. K.S.A. 2006 Supp. 59-104 is hereby amended to read as  
13 follows: 59-104. (a) *Docket fee. (1)* Except as otherwise provided by law,  
14 no case shall be filed or docketed in the district court under the provisions  
15 of chapter 59 of the Kansas Statutes Annotated or of articles 40 and 52  
16 of chapter 65 of the Kansas Statutes Annotated without payment of an  
17 appropriate docket fee as follows:

18 ~~(A)~~ (A) On and after July 1, ~~2006~~ 2007 through June 30, 2010:

19	Treatment of mentally ill .....	<del>\$27.50</del> \$50.00
20	Treatment of alcoholism or drug abuse.....	27.50
21	Determination of descent of property .....	42.50
22	Termination of life estate.....	41.50
23	Termination of joint tenancy .....	41.50
24	Refusal to grant letters of administration .....	41.50
25	Adoption.....	41.50
26	Filing a will and affidavit under K.S.A. 59-618a.....	41.50
27	Guardianship .....	62.50
28	Conservatorship .....	62.50
29	Trusteeship .....	62.50
30	Combined guardianship and conservatorship.....	62.50
31	Certified probate proceedings under K.S.A. 59-213, and amendments	
32	thereto .....	16.50
33	Decrees in probate from another state .....	101.50
34	Probate of an estate or of a will.....	102.50
35	Civil commitment under K.S.A. 59-29a01 et seq.....	26.50

36 ~~(B)~~ (B) On and after July 1, 2010:

37	Treatment of mentally ill .....	\$25.50
38	Treatment of alcoholism or drug abuse.....	25.50
39	Determination of descent of property .....	40.50
40	Termination of life estate.....	39.50
41	Termination of joint tenancy .....	39.50
42	Refusal to grant letters of administration .....	39.50
43	Adoption.....	39.50

1	Filing a will and affidavit under K.S.A. 59-618a.....	39.50
2	Guardianship.....	60.50
3	Conservatorship.....	60.50
4	Trusteeship.....	60.50
5	Combined guardianship and conservatorship.....	60.50
6	Certified probate proceedings under K.S.A. 59-213, and amendments	
7	thereto.....	14.50
8	Decrees in probate from another state.....	99.50
9	Probate of an estate or of a will.....	100.50
10	Civil commitment under K.S.A. 59-29a01 et seq.....	24.50

11       (2) *The docket fee established in this subsection shall be the only fee*  
 12 *collected or moneys in the nature of a fee collected for the docket fee. Such*  
 13 *fee shall only be established by an act of the legislature and no other*  
 14 *authority is established by law or otherwise to collect a fee.*

15       (b) *Poverty affidavit in lieu of docket fee and exemptions.* The pro-  
 16 visions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and  
 17 amendments thereto, shall apply to probate docket fees prescribed by  
 18 this section.

19       (c) *Disposition of docket fee.* Statutory charges for the law library and  
 20 for the prosecuting attorneys’ training fund shall be paid from the docket  
 21 fee. The remainder of the docket fee shall be paid to the state treasurer  
 22 in accordance with K.S.A. 20-362, and amendments thereto.

23       (d) *Additional court costs.* Other fees and expenses to be assessed as  
 24 additional court costs shall be approved by the court, unless specifically  
 25 fixed by statute. Other fees shall include, but not be limited to, witness  
 26 fees, appraiser fees, fees for service of process outside the state, fees for  
 27 depositions, transcripts and publication of legal notice, executor or ad-  
 28 ministrator fees, attorney fees, court costs from other courts and any other  
 29 fees and expenses required by statute. All additional court costs shall be  
 30 taxed and billed against the parties or estate as directed by the court. No  
 31 sheriff in this state shall charge any district court in this state a fee or  
 32 mileage for serving any paper or process.

33       Sec. 30. K.S.A. 2006 Supp. 60-460 is hereby amended to read as  
 34 follows: 60-460. Evidence of a statement which is made other than by a  
 35 witness while testifying at the hearing, offered to prove the truth of the  
 36 matter stated, is hearsay evidence and inadmissible except:

37       (a) *Previous statements of persons present.* A statement previously  
 38 made by a person who is present at the hearing and available for cross-  
 39 examination with respect to the statement and its subject matter, provided  
 40 the statement would be admissible if made by declarant while testifying  
 41 as a witness.

42       (b) *Affidavits.* Affidavits, to the extent admissible by the statutes of  
 43 this state.



1       (c) *Depositions and prior testimony.* Subject to the same limitations  
2 and objections as though the declarant were testifying in person, (1) tes-  
3 timony in the form of a deposition taken in compliance with the law of  
4 this state for use as testimony in the trial of the action in which offered  
5 or (2) if the judge finds that the declarant is unavailable as a witness at  
6 the hearing, testimony given as a witness in another action or in a prelim-  
7 inary hearing or former trial in the same action, or in a deposition taken  
8 in compliance with law for use as testimony in the trial of another action,  
9 when (A) the testimony is offered against a party who offered it in the  
10 party's own behalf on the former occasion or against the successor in  
11 interest of such party or (B) the issue is such that the adverse party on  
12 the former occasion had the right and opportunity for cross-examination  
13 with an interest and motive similar to that which the adverse party has in  
14 the action in which the testimony is offered, but the provisions of this  
15 subsection (c) shall not apply in criminal actions if it denies to the accused  
16 the right to meet the witness face to face.

17       (d) *Contemporaneous statements and statements admissible on*  
18 *ground of necessity generally.* A statement which the judge finds was  
19 made (1) while the declarant was perceiving the event or condition which  
20 the statement narrates, describes or explains, (2) while the declarant was  
21 under the stress of a nervous excitement caused by such perception or  
22 (3) if the declarant is unavailable as a witness, by the declarant at a time  
23 when the matter had been recently perceived by the declarant and while  
24 the declarant's recollection was clear and was made in good faith prior to  
25 the commencement of the action and with no incentive to falsify or to  
26 distort.

27       (e) *Dying declarations.* A statement by a person unavailable as a wit-  
28 ness because of the person's death if the judge finds that it was made (1)  
29 voluntarily and in good faith and (2) while the declarant was conscious of  
30 the declarant's impending death and believed that there was no hope of  
31 recovery.

32       (f) *Confessions.* In a criminal proceeding as against the accused, a  
33 previous statement by the accused relative to the offense charged, but  
34 only if the judge finds that the accused (1) when making the statement  
35 was conscious and was capable of understanding what the accused said  
36 and did and (2) was not induced to make the statement (A) under com-  
37 pulsion or by infliction or threats of infliction of suffering upon the ac-  
38 cused or another, or by prolonged interrogation under such circumstances  
39 as to render the statement involuntary or (B) by threats or promises con-  
40 cerning action to be taken by a public official with reference to the crime,  
41 likely to cause the accused to make such a statement falsely, and made  
42 by a person whom the accused reasonably believed to have the power or  
43 authority to execute the same.

- 1 (g) *Admissions by parties.* As against a party, a statement by the per-  
2 son who is the party to the action in the person's individual or a repre-  
3 sentative capacity and, if the latter, who was acting in such representative  
4 capacity in making the statement.
- 5 (h) *Authorized and adoptive admissions.* As against a party, a state-  
6 ment (1) by a person authorized by the party to make a statement or  
7 statements for the party concerning the subject of the statement or (2)  
8 of which the party with knowledge of the content thereof has, by words  
9 or other conduct, manifested the party's adoption or belief in its truth.
- 10 (i) *Vicarious admissions.* As against a party, a statement which would  
11 be admissible if made by the declarant at the hearing if (1) the statement  
12 concerned a matter within the scope of an agency or employment of the  
13 declarant for the party and was made before the termination of such  
14 relationship, (2) the party and the declarant were participating in a plan  
15 to commit a crime or a civil wrong and the statement was relevant to the  
16 plan or its subject matter and was made while the plan was in existence  
17 and before its complete execution or other termination or (3) one of the  
18 issues between the party and the proponent of the evidence of the state-  
19 ment is a legal liability of the declarant, and the statement tends to es-  
20 tablish that liability.
- 21 (j) *Declarations against interest.* Subject to the limitations of excep-  
22 tion (f), a statement which the judge finds was at the time of the assertion  
23 so far contrary to the declarant's pecuniary or proprietary interest or so  
24 far subjected the declarant to civil or criminal liability or so far rendered  
25 invalid a claim by the declarant against another or created such risk of  
26 making the declarant an object of hatred, ridicule or social disapproval in  
27 the community that a reasonable person in the declarant's position would  
28 not have made the statement unless the person believed it to be true.
- 29 (k) *Voter's statements.* A statement by a voter concerning the voter's  
30 qualifications to vote or the fact or content of the voter's vote.
- 31 (l) *Statements of physical or mental condition of declarant.* Unless  
32 the judge finds it was made in bad faith, a statement of the declarant's  
33 (1) then existing state of mind, emotion or physical sensation, including  
34 statements of intent, plan, motive, design, mental feeling, pain and bodily  
35 health, but not including memory or belief to prove the fact remembered  
36 or believed, when such a mental or physical condition is in issue or is  
37 relevant to prove or explain acts or conduct of the declarant or (2) pre-  
38 vious symptoms, pain or physical sensation, made to a physician consulted  
39 for treatment or for diagnosis with a view to treatment, and relevant to  
40 an issue of declarant's bodily condition.
- 41 (m) *Business entries and the like.* Writings offered as memoranda or  
42 records of acts, conditions or events to prove the facts stated therein, if  
43 the judge finds that (1) they were made in the regular course of a business

1 at or about the time of the act, condition or event recorded and (2) the  
2 sources of information from which made and the method and circum-  
3 stances of their preparation were such as to indicate their trustworthiness.

4 If the procedure specified by subsection (b) of K.S.A. 60-245a for pro-  
5 viding business records has been complied with and no party has required  
6 the personal attendance of a custodian of the records or the production  
7 of the original records, the affidavit of the custodian shall be prima facie  
8 evidence that the records satisfy the requirements of this subsection.

9 (n) *Absence of entry in business records.* Evidence of the absence of  
10 a memorandum or record from the memoranda or records of a business  
11 of an asserted act, event or condition, to prove the nonoccurrence of the  
12 act or event, or the nonexistence of the condition, if the judge finds that  
13 it was the regular course of that business to make such memoranda of all  
14 such acts, events or conditions at the time thereof or within a reasonable  
15 time thereafter and to preserve them.

16 (o) *Content of official record.* Subject to K.S.A. 60-461 and amend-  
17 ments thereto, (1) if meeting the requirements of authentication under  
18 K.S.A. 60-465 and amendments thereto, to prove the content of the rec-  
19 ord, a writing purporting to be a copy of an official record or of an entry  
20 therein or (2) to prove the absence of a record in a specified office, a  
21 writing made by the official custodian of the official records of the office,  
22 reciting diligent search and failure to find such record.

23 (p) *Certificate of marriage.* Subject to K.S.A. 60-461 and amend-  
24 ments thereto, certificates that the maker thereof performed marriage  
25 ceremonies, to prove the truth of the recitals thereof, if the judge finds  
26 that (1) the maker of the certificates, at the time and place certified as  
27 the times and places of the marriages, was authorized by law to perform  
28 marriage ceremonies and (2) the certificate was issued at that time or  
29 within a reasonable time thereafter.

30 (q) *Records of documents affecting an interest in property.* Subject  
31 to K.S.A. 60-461 and amendments thereto, the official record of a doc-  
32 ument purporting to establish or affect an interest in property, to prove  
33 the content of the original recorded document and its execution and de-  
34 livery by each person by whom it purports to have been executed, if the  
35 judge finds that (1) the record is in fact a record of an office of a state or  
36 nation or of any governmental subdivision thereof and (2) an applicable  
37 statute authorized such a document to be recorded in that office.

38 (r) *Judgment of previous conviction.* Evidence of a final judgment  
39 adjudging a person guilty of a felony, to prove any fact essential to sustain  
40 the judgment.

41 (s) *Judgment against persons entitled to indemnity.* To prove the  
42 wrong of the adverse party and the amount of damages sustained by the  
43 judgment creditor, evidence of a final judgment if offered by a judgment

1 debtor in an action in which the debtor seeks to recover partial or total  
2 indemnity or exoneration for money paid or liability incurred by the  
3 debtor because of the judgment, provided the judge finds that the judg-  
4 ment was rendered for damages sustained by the judgment creditor as a  
5 result of the wrong of the adverse party to the present action.

6 (t) *Judgment determining public interest in land.* To prove any fact  
7 which was essential to the judgment, evidence of a final judgment deter-  
8 mining the interest or lack of interest of the public or of a state or nation  
9 or governmental division thereof in land, if offered by a party in an action  
10 in which any such fact or such interest or lack of interest is a material  
11 matter.

12 (u) *Statement concerning one's own family history.* A statement of a  
13 matter concerning a declarant's own birth, marriage, divorce, legitimacy,  
14 relationship by blood or marriage, race-ancestry or other similar fact of  
15 the declarant's family history, even though the declarant had no means  
16 of acquiring personal knowledge of the matter declared, if the judge finds  
17 that the declarant is unavailable.

18 (v) *Statement concerning family history of another.* A statement con-  
19 cerning the birth, marriage, divorce, death, legitimacy, race-ancestry, re-  
20 lationship by blood or marriage or other similar fact of the family history  
21 of a person other than the declarant if the judge finds that the declarant  
22 (1) was related to the other by blood or marriage, or was otherwise so  
23 intimately associated with the other's family as to be likely to have accu-  
24 rate information concerning the matter declared, and made the statement  
25 as upon information received from the other or from a person related by  
26 blood or marriage to the other or as upon repute in the other's family  
27 and (2) is unavailable as a witness.

28 (w) *Statement concerning family history based on statement of an-*  
29 *other declarant.* A statement of a declarant that a statement admissible  
30 under exceptions (u) or (v) was made by another declarant, offered as  
31 tending to prove the truth of the matter declared by both declarants, if  
32 the judge finds that both declarants are unavailable as witnesses.

33 (x) *Reputation in family concerning family history.* Evidence of rep-  
34 utation among members of a family, if the reputation concerns the birth,  
35 marriage, divorce, death, legitimacy, race-ancestry or other fact of the  
36 family history of a member of the family by blood or marriage.

37 (y) *Reputation—boundaries, general history, family history.* Evi-  
38 dence of reputation in a community as tending to prove the truth of the  
39 matter reputed, if the reputation concerns (1) boundaries of or customs  
40 affecting, land in the community and the judge finds that the reputation,  
41 if any, arose before controversy, (2) an event of general history of the  
42 community or of the state or nation of which the community is a part and  
43 the judge finds that the event was of importance to the community or (3)

1 the birth, marriage, divorce, death, legitimacy, relationship by blood or  
2 marriage, or race-ancestry of a person resident in the community at the  
3 time of the reputation, or some other similar fact of the person's family  
4 history or of the person's personal status or condition which the judge  
5 finds likely to have been the subject of a reliable reputation in that com-  
6 munity.

7 (z) *Reputation as to character.* If a trait of a person's character at a  
8 specified time is material, evidence of the person's reputation with ref-  
9 erence thereto at a relevant time in the community in which the person  
10 then resided or in a group with which the person then habitually associ-  
11 ated, to prove the truth of the matter reputed.

12 (aa) *Recitals in documents affecting property.* Evidence of a state-  
13 ment relevant to a material matter, contained in a deed of conveyance or  
14 a will or other document purporting to affect an interest in property,  
15 offered as tending to prove the truth of the matter stated, if the judge  
16 finds that (1) the matter stated would be relevant upon an issue as to an  
17 interest in the property and (2) the dealings with the property since the  
18 statement was made have not been inconsistent with the truth of the  
19 statement.

20 (bb) *Commercial lists and the like.* Evidence of statements of matters  
21 of interest to persons engaged in an occupation contained in a list, reg-  
22 ister, periodical or other published compilation, to prove the truth of any  
23 relevant matter so stated, if the judge finds that the compilation is pub-  
24 lished for use by persons engaged in that occupation and is generally used  
25 and relied upon by them.

26 (cc) *Learned treatises.* A published treatise, periodical or pamphlet  
27 on a subject of history, science or art, to prove the truth of a matter stated  
28 therein, if the judge takes judicial notice, or a witness expert in the subject  
29 testifies, that the treatise, periodical or pamphlet is a reliable authority in  
30 the subject.

31 (dd) *Actions involving children.* In a criminal proceeding or a pro-  
32 ceeding pursuant to the revised Kansas juvenile justice code or in a pro-  
33 ceeding to determine if a child is a child in need of care under the *revised*  
34 Kansas code for care of children, a statement made by a child, to prove  
35 the crime or that a child is a juvenile offender or a child in need of care,  
36 if:

37 (1) The child is alleged to be a victim of the crime or offense or a  
38 child in need of care; and

39 (2) the trial judge finds, after a hearing on the matter, that the child  
40 is disqualified or unavailable as a witness, the statement is apparently  
41 reliable and the child was not induced to make the statement falsely by  
42 use of threats or promises.

43 If a statement is admitted pursuant to this subsection in a trial to a

1 jury, the trial judge shall instruct the jury that it is for the jury to deter-  
2 mine the weight and credit to be given the statement and that, in making  
3 the determination, it shall consider the age and maturity of the child, the  
4 nature of the statement, the circumstances under which the statement  
5 was made, any possible threats or promises that might have been made  
6 to the child to obtain the statement and any other relevant factor.

7 (ee) *Certified motor vehicle certificate of title history*. Subject to  
8 K.S.A. 60-461, and amendments thereto, a certified motor vehicle certif-  
9 icate of title history prepared by the division of vehicles of the Kansas  
10 department of revenue.

11 Sec. 31. K.S.A. 2006 Supp. 60-2001 is hereby amended to read as  
12 follows: 60-2001. (a) *Docket fee*. Except as otherwise provided by law, no  
13 case shall be filed or docketed in the district court, whether original or  
14 appealed, without payment of a docket fee in the amount of \$147 on and  
15 after July 1, 2006 through June 30, 2010, and \$145 on and after July 1,  
16 2010, to the clerk of the district court. *The docket fee established in this*  
17 *subsection shall be the only fee collected or moneys in the nature of a fee*  
18 *collected for the docket fee. Such fee shall only be established by an act*  
19 *of the legislature and no other authority is established by law or otherwise*  
20 *to collect a fee.*

21 (b) *Poverty affidavit in lieu of docket fee*. (1) *Effect*. In any case where  
22 a plaintiff by reason of poverty is unable to pay a docket fee, and an  
23 affidavit so stating is filed, no fee will be required. An inmate in the  
24 custody of the secretary of corrections may file a poverty affidavit only if  
25 the inmate attaches a statement disclosing the average account balance,  
26 or the total deposits, whichever is less, in the inmate's trust fund for each  
27 month in (A) the six-month period preceding the filing of the action; or  
28 (B) the current period of incarceration, whichever is shorter. Such state-  
29 ment shall be certified by the secretary. On receipt of the affidavit and  
30 attached statement, the court shall determine the initial fee to be assessed  
31 for filing the action and in no event shall the court require an inmate to  
32 pay less than \$3. The secretary of corrections is hereby authorized to  
33 disburse money from the inmate's account to pay the costs as determined  
34 by the court. If the inmate has a zero balance in such inmate's account,  
35 the secretary shall debit such account in the amount of \$3 per filing fee  
36 as established by the court until money is credited to the account to pay  
37 such docket fee. Any initial filing fees assessed pursuant to this subsection  
38 shall not prevent the court, pursuant to subsection (d), from taxing that  
39 individual for the remainder of the amount required under subsection (a)  
40 or this subsection.

41 (2) *Form of affidavit*. The affidavit provided for in this subsection  
42 shall be in the following form and attached to the petition:

1 State of Kansas, \_\_\_\_\_ County.

2 In the district court of the county: I do solemnly swear that the claim set forth in the  
3 petition herein is just, and I do further swear that, by reason of my poverty, I am unable to  
4 pay a docket fee.

5 (c) *Disposition of fees.* The docket fees and the fees for service of  
6 process shall be the only costs assessed in each case for services of the  
7 clerk of the district court and the sheriff. For every person to be served  
8 by the sheriff, the persons requesting service of process shall provide  
9 proper payment to the clerk and the clerk of the district court shall for-  
10 ward the service of process fee to the sheriff in accordance with K.S.A.  
11 28-110, and amendments thereto. The service of process fee, if paid by  
12 check or money order, shall be made payable to the sheriff. Such service  
13 of process fee shall be submitted by the sheriff at least monthly to the  
14 county treasurer for deposit in the county treasury and credited to the  
15 county general fund. The docket fee shall be disbursed in accordance  
16 with K.S.A. 20-362 and amendments thereto.

17 (d) *Additional court costs.* Other fees and expenses to be assessed as  
18 additional court costs shall be approved by the court, unless specifically  
19 fixed by statute. Other fees shall include, but not be limited to, witness  
20 fees, appraiser fees, fees for service of process, fees for depositions, al-  
21 ternative dispute resolution fees, transcripts and publication, attorney  
22 fees, court costs from other courts and any other fees and expenses re-  
23 quired by statute. All additional court costs shall be taxed and billed  
24 against the parties as directed by the court. No sheriff in this state shall  
25 charge any mileage for serving any papers or process.

26 Sec. 32. K.S.A. 2006 Supp. 61-2704 is hereby amended to read as  
27 follows: 61-2704. (a) An action seeking the recovery of a small claim shall  
28 be considered to have been commenced at the time a person files a writ-  
29 ten statement of the person's small claim with the clerk of the court if,  
30 within 90 days after the small claim is filed, service of process is obtained  
31 or the first publication is made for service by publication. Otherwise, the  
32 action is deemed commenced at the time of service of process or first  
33 publication. An entry of appearance shall have the same effect as service.

34 (b) Upon the filing of a plaintiff's small claim, the clerk of the court  
35 shall require from the plaintiff a docket fee of \$30 on and after July 1,  
36 2006 through June 30, 2010, and \$28 on and after July 1, 2010, if the  
37 claim does not exceed \$500; or \$50 on and after July 1, 2006 through  
38 June 30, 2010, and \$48 on and after July 1, 2010, if the claim exceeds  
39 \$500; unless for good cause shown the judge waives the fee. The docket  
40 fee shall be the only costs required in an action seeking recovery of a  
41 small claim. No person may file more than 20 small claims under this act  
42 in the same court during any calendar year.

43 (c) *The docket fee established in this section shall be the only fee*

1 *collected or moneys in the nature of a fee collected for the docket fee. Such*  
2 *fee shall only be established by an act of the legislature and no other*  
3 *authority is established by law or otherwise to collect a fee.*

4 Sec. 33. K.S.A. 2006 Supp. 61-4001 is hereby amended to read as  
5 follows: 61-4001. (a) Docket fee. No case shall be filed or docketed pur-  
6 suant to the code of civil procedure for limited actions without the pay-  
7 ment of a docket fee in the amount of \$28 on and after July 1, 2006  
8 through June 30, 2010, and \$26 on and after July 1, 2010, if the amount  
9 in controversy or claimed does not exceed \$500; \$48 on and after July 1,  
10 2006 through June 30, 2010, and \$46 on and after July 1, 2010, if the  
11 amount in controversy or claimed exceeds \$500 but does not exceed  
12 \$5,000; or \$94 on and after July 1, 2006 through June 30, 2010, and \$92  
13 on and after July 1, 2010, if the amount in controversy or claimed exceeds  
14 \$5,000. If judgment is rendered for the plaintiff, the court also may enter  
15 judgment for the plaintiff for the amount of the docket fee paid by the  
16 plaintiff.

17 (b) Poverty affidavit; additional court costs; *exemptions for the state*  
18 *and municipalities*. The provisions of subsections (b), (c) and (d) of K.S.A.  
19 60-2001 *and 60-2005* and amendments thereto, shall be applicable to  
20 lawsuits brought under the code of civil procedure for limited actions.

21 (c) *The docket fee established in this section shall be the only fee*  
22 *collected or moneys in the nature of a fee collected for the docket fee. Such*  
23 *fee shall only be established by an act of the legislature and no other*  
24 *authority is established by law or otherwise to collect a fee.*

25 Sec. 34. K.S.A. 2006 Supp. 65-1626 is hereby amended to read as  
26 follows: 65-1626. For the purposes of this act:

27 (a) "Administer" means the direct application of a drug, whether by  
28 injection, inhalation, ingestion or any other means, to the body of a patient  
29 or research subject by:

30 (1) A practitioner or pursuant to the lawful direction of a practitioner;

31 (2) the patient or research subject at the direction and in the presence  
32 of the practitioner; or

33 (3) a pharmacist as authorized in K.S.A. 65-1635a and amendments  
34 thereto.

35 (b) "Agent" means an authorized person who acts on behalf of or at  
36 the direction of a manufacturer, distributor or dispenser but shall not  
37 include a common carrier, public warehouseman or employee of the car-  
38 rier or warehouseman when acting in the usual and lawful course of the  
39 carrier's or warehouseman's business.

40 (c) "Board" means the state board of pharmacy created by K.S.A. 74-  
41 1603 and amendments thereto.

42 (d) "Brand exchange" means the dispensing of a different drug prod-  
43 uct of the same dosage form and strength and of the same generic name



- 1 than the brand name drug product prescribed.
- 2 (e) “Brand name” means the registered trademark name given to a  
3 drug product by its manufacturer, labeler or distributor.
- 4 (f) “Deliver” or “delivery” means the actual, constructive or at-  
5 tempted transfer from one person to another of any drug whether or not  
6 an agency relationship exists.
- 7 (g) “Direct supervision” means the process by which the responsible  
8 pharmacist shall observe and direct the activities of a pharmacy student  
9 or pharmacy technician to a sufficient degree to assure that all such ac-  
10 tivities are performed accurately, safely and without risk or harm to pa-  
11 tients, and complete the final check before dispensing.
- 12 (h) “Dispense” means to deliver prescription medication to the ulti-  
13 mate user or research subject by or pursuant to the lawful order of a  
14 practitioner or pursuant to the prescription of a mid-level practitioner.
- 15 (i) “Dispenser” means a practitioner or pharmacist who dispenses  
16 prescription medication.
- 17 (j) “Distribute” means to deliver, other than by administering or dis-  
18 pensing, any drug.
- 19 (k) “Distributor” means a person who distributes a drug.
- 20 (l) “Drug” means: (1) Articles recognized in the official United States  
21 pharmacopoeia, or other such official compendiums of the United States,  
22 or official national formulary, or any supplement of any of them; (2) ar-  
23 ticles intended for use in the diagnosis, cure, mitigation, treatment or  
24 prevention of disease in man or other animals; (3) articles, other than  
25 food, intended to affect the structure or any function of the body of man  
26 or other animals; and (4) articles intended for use as a component of any  
27 articles specified in clause (1), (2) or (3) of this subsection; but does not  
28 include devices or their components, parts or accessories, except that the  
29 term “drug” shall not include amygdalin (laetrile) or any livestock remedy,  
30 if such livestock remedy had been registered in accordance with the pro-  
31 visions of article 5 of chapter 47 of the Kansas Statutes Annotated prior  
32 to its repeal.
- 33 (m) “Electronic transmission” means transmission of information in  
34 electronic form or the transmission of the exact visual image of a docu-  
35 ment by way of electronic equipment.
- 36 (n) “Generic name” means the established chemical name or official  
37 name of a drug or drug product.
- 38 (o) (1) “Institutional drug room” means any location where prescrip-  
39 tion-only drugs are stored and from which prescription-only drugs are  
40 administered or dispensed and which is maintained or operated for the  
41 purpose of providing the drug needs of:
- 42 (A) Inmates of a jail or correctional institution or facility;
- 43 (B) residents of a juvenile detention facility, as defined by the *revised*

- 1 Kansas code for care of children and the revised Kansas juvenile justice  
2 code;
- 3 (C) students of a public or private university or college, a community  
4 college or any other institution of higher learning which is located in  
5 Kansas;
- 6 (D) employees of a business or other employer; or  
7 (E) persons receiving inpatient hospice services.
- 8 (2) "Institutional drug room" does not include:
- 9 (A) Any registered pharmacy;  
10 (B) any office of a practitioner; or  
11 (C) a location where no prescription-only drugs are dispensed and no  
12 prescription-only drugs other than individual prescriptions are stored or  
13 administered.
- 14 (p) "Medical care facility" shall have the meaning provided in K.S.A.  
15 65-425 and amendments thereto, except that the term shall also include  
16 facilities licensed under the provisions of K.S.A. 75-3307b and amend-  
17 ments thereto except community mental health centers and facilities for  
18 the mentally retarded.
- 19 (q) "Manufacture" means the production, preparation, propagation,  
20 compounding, conversion or processing of a drug either directly or in-  
21 directly by extraction from substances of natural origin, independently by  
22 means of chemical synthesis or by a combination of extraction and chem-  
23 ical synthesis and includes any packaging or repackaging of the drug or  
24 labeling or relabeling of its container, except that this term shall not in-  
25 clude the preparation or compounding of a drug by an individual for the  
26 individual's own use or the preparation, compounding, packaging or la-  
27 beling of a drug by: (1) A practitioner or a practitioner's authorized agent  
28 incident to such practitioner's administering or dispensing of a drug in  
29 the course of the practitioner's professional practice; (2) a practitioner,  
30 by a practitioner's authorized agent or under a practitioner's supervision  
31 for the purpose of, or as an incident to, research, teaching or chemical  
32 analysis and not for sale; or (3) a pharmacist or the pharmacist's author-  
33 ized agent acting under the direct supervision of the pharmacist for the  
34 purpose of, or incident to, the dispensing of a drug by the pharmacist.
- 35 (r) "Person" means individual, corporation, government, govern-  
36 mental subdivision or agency, partnership, association or any other legal  
37 entity.
- 38 (s) "Pharmacist" means any natural person licensed under this act to  
39 practice pharmacy.
- 40 (t) "Pharmacist in charge" means the pharmacist who is responsible  
41 to the board for a registered establishment's compliance with the laws  
42 and regulations of this state pertaining to the practice of pharmacy, man-  
43 ufacturing of drugs and the distribution of drugs. The pharmacist in

- 1 charge shall supervise such establishment on a full-time or a part-time  
2 basis and perform such other duties relating to supervision of a registered  
3 establishment as may be prescribed by the board by rules and regulations.  
4 Nothing in this definition shall relieve other pharmacists or persons from  
5 their responsibility to comply with state and federal laws and regulations.
- 6 (u) "Pharmacy," "drug store" or "apothecary" means premises, lab-  
7 oratory, area or other place: (1) Where drugs are offered for sale where  
8 the profession of pharmacy is practiced and where prescriptions are com-  
9 pounded and dispensed; or (2) which has displayed upon it or within it  
10 the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apoth-  
11 ecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these  
12 words or combinations of these words or words of similar import either  
13 in English or any sign containing any of these words; or (3) where the  
14 characteristic symbols of pharmacy or the characteristic prescription sign  
15 "Rx" may be exhibited. As used in this subsection, premises refers only  
16 to the portion of any building or structure leased, used or controlled by  
17 the licensee in the conduct of the business registered by the board at the  
18 address for which the registration was issued.
- 19 (v) "Pharmacy student" means an individual, registered with the  
20 board of pharmacy, enrolled in an accredited school of pharmacy.
- 21 (w) "Pharmacy technician" means an individual who, under the direct  
22 supervision and control of a pharmacist, may perform packaging, manip-  
23 ulative, repetitive or other nondiscretionary tasks related to the processing  
24 of a prescription or medication order and who assists the pharmacist in  
25 the performance of pharmacy related duties, but who does not perform  
26 duties restricted to a pharmacist.
- 27 (x) "Practitioner" means a person licensed to practice medicine and  
28 surgery, dentist, podiatrist, veterinarian, optometrist licensed under the  
29 optometry law as a therapeutic licensee or diagnostic and therapeutic  
30 licensee, or scientific investigator or other person authorized by law to  
31 use a prescription-only drug in teaching or chemical analysis or to conduct  
32 research with respect to a prescription-only drug.
- 33 (y) "Preceptor" means a licensed pharmacist who possesses at least  
34 two years' experience as a pharmacist and who supervises students ob-  
35 taining the pharmaceutical experience required by law as a condition to  
36 taking the examination for licensure as a pharmacist.
- 37 (z) "Prescription" means, according to the context, either a prescrip-  
38 tion order or a prescription medication.
- 39 (aa) "Prescription medication" means any drug, including label and  
40 container according to context, which is dispensed pursuant to a prescrip-  
41 tion order.
- 42 (bb) "Prescription-only drug" means any drug whether intended for  
43 use by man or animal, required by federal or state law (including 21

- 1 United States Code section 353, as amended) to be dispensed only pur-  
2 suant to a written or oral prescription or order of a practitioner or is  
3 restricted to use by practitioners only.
- 4 (cc) “Prescription order” means: (1) An order to be filled by a phar-  
5 macist for prescription medication issued and signed by a practitioner or  
6 a mid-level practitioner in the authorized course of professional practice;  
7 or (2) an order transmitted to a pharmacist through word of mouth, note,  
8 telephone or other means of communication directed by such practitioner  
9 or mid-level practitioner.
- 10 (dd) “Probation” means the practice or operation under a temporary  
11 license, registration or permit or a conditional license, registration or per-  
12 mit of a business or profession for which a license, registration or permit  
13 is granted by the board under the provisions of the pharmacy act of the  
14 state of Kansas requiring certain actions to be accomplished or certain  
15 actions not to occur before a regular license, registration or permit is  
16 issued.
- 17 (ee) “Professional incompetency” means:
- 18 (1) One or more instances involving failure to adhere to the appli-  
19 cable standard of pharmaceutical care to a degree which constitutes gross  
20 negligence, as determined by the board;
- 21 (2) repeated instances involving failure to adhere to the applicable  
22 standard of pharmaceutical care to a degree which constitutes ordinary  
23 negligence, as determined by the board; or
- 24 (3) a pattern of pharmacy practice or other behavior which demon-  
25 strates a manifest incapacity or incompetence to practice pharmacy.
- 26 (ff) “Retail dealer” means a person selling at retail nonprescription  
27 drugs which are prepackaged, fully prepared by the manufacturer or dis-  
28 tributor for use by the consumer and labeled in accordance with the  
29 requirements of the state and federal food, drug and cosmetic acts. Such  
30 nonprescription drugs shall not include: (1) A controlled substance; (2) a  
31 prescription-only drug; or (3) a drug intended for human use by hypo-  
32 dermic injection.
- 33 (gg) “Secretary” means the executive secretary of the board.
- 34 (hh) “Unprofessional conduct” means:
- 35 (1) Fraud in securing a registration or permit;
- 36 (2) intentional adulteration or mislabeling of any drug, medicine,  
37 chemical or poison;
- 38 (3) causing any drug, medicine, chemical or poison to be adulterated  
39 or mislabeled, knowing the same to be adulterated or mislabeled;
- 40 (4) intentionally falsifying or altering records or prescriptions;
- 41 (5) unlawful possession of drugs and unlawful diversion of drugs to  
42 others;
- 43 (6) willful betrayal of confidential information under K.S.A. 65-1654

1 and amendments thereto;

2 (7) conduct likely to deceive, defraud or harm the public;

3 (8) making a false or misleading statement regarding the licensee's  
4 professional practice or the efficacy or value of a drug;

5 (9) commission of any act of sexual abuse, misconduct or exploitation  
6 related to the licensee's professional practice; or

7 (10) performing unnecessary tests, examinations or services which  
8 have no legitimate pharmaceutical purpose.

9 (ii) "Mid-level practitioner" means an advanced registered nurse  
10 practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131  
11 and amendments thereto who has authority to prescribe drugs pursuant  
12 to a written protocol with a responsible physician under K.S.A. 65-1130  
13 and amendments thereto or a physician assistant licensed pursuant to the  
14 physician assistant licensure act who has authority to prescribe drugs pur-  
15 suant to a written protocol with a responsible physician under K.S.A. 65-  
16 28a08 and amendments thereto.

17 (jj) "Vaccination protocol" means a written protocol, agreed to by a  
18 pharmacist and a person licensed to practice medicine and surgery by the  
19 state board of healing arts, which establishes procedures and recordkeep-  
20 ing and reporting requirements for administering a vaccine by the phar-  
21 macist for a period of time specified therein, not to exceed two years.

22 (kk) "Veterinary medical teaching hospital pharmacy" means any lo-  
23 cation where prescription-only drugs are stored as part of an accredited  
24 college of veterinary medicine and from which prescription-only drugs  
25 are distributed for use in treatment of or administration to a non-human.

26 Sec. 35. K.S.A. 2006 Supp. 72-6434 is hereby amended to read as  
27 follows: 72-6434. (a) In each school year, each district that has adopted a  
28 local option budget is eligible for entitlement to an amount of supple-  
29 mental general state aid. *Except as provided by K.S.A. 2006 Supp. 72-*  
30 *6434b, and amendments thereto*, entitlement of a district to supplemental  
31 general state aid shall be determined by the state board as provided in  
32 this subsection. The state board shall:

33 (1) Determine the amount of the assessed valuation per pupil in the  
34 preceding school year of each district in the state;

35 (2) rank the districts from low to high on the basis of the amounts of  
36 assessed valuation per pupil determined under (1);

37 (3) identify the amount of the assessed valuation per pupil located at  
38 the 81.2 percentile of the amounts ranked under (2);

39 (4) divide the assessed valuation per pupil of the district in the pre-  
40 ceding school year by the amount identified under (3);

41 (5) subtract the ratio obtained under (4) from 1.0. If the resulting  
42 ratio equals or exceeds 1.0, the eligibility of the district for entitlement  
43 to supplemental general state aid shall lapse. If the resulting ratio is less

1 than 1.0, the district is entitled to receive supplemental general state aid  
2 in an amount which shall be determined by the state board by multiplying  
3 the amount of the local option budget of the district by such ratio. The  
4 product is the amount of supplemental general state aid the district is  
5 entitled to receive for the school year.

6 (b) If the amount of appropriations for supplemental general state  
7 aid is less than the amount each district is entitled to receive for the school  
8 year, the state board shall prorate the amount appropriated among the  
9 districts in proportion to the amount each district is entitled to receive.

10 (c) The state board shall prescribe the dates upon which the distri-  
11 bution of payments of supplemental general state aid to school districts  
12 shall be due. Payments of supplemental general state aid shall be distrib-  
13 uted to districts on the dates prescribed by the state board. The state  
14 board shall certify to the director of accounts and reports the amount due  
15 each district, and the director of accounts and reports shall draw a warrant  
16 on the state treasurer payable to the treasurer of the district. Upon receipt  
17 of the warrant, the treasurer of the district shall credit the amount thereof  
18 to the supplemental general fund of the district to be used for the pur-  
19 poses of such fund.

20 (d) If any amount of supplemental general state aid that is due to be  
21 paid during the month of June of a school year pursuant to the other  
22 provisions of this section is not paid on or before June 30 of such school  
23 year, then such payment shall be paid on or after the ensuing July 1, as  
24 soon as moneys are available therefor. Any payment of supplemental gen-  
25 eral state aid that is due to be paid during the month of June of a school  
26 year and that is paid to school districts on or after the ensuing July 1 shall  
27 be recorded and accounted for by school districts as a receipt for the  
28 school year ending on the preceding June 30.

29 (e) (1) Except as provided by paragraph (2), moneys received as sup-  
30 plemental general state aid shall be used to meet the requirements under  
31 the school performance accreditation system adopted by the state board,  
32 to provide programs and services required by law and to improve student  
33 performance.

34 (2) Amounts of supplemental general state aid attributable to any  
35 percentage over 25% of state financial aid determined for the current  
36 school year may be transferred to the capital improvements fund of the  
37 district and the capital outlay fund of the district if such transfers are  
38 specified in the resolution authorizing the adoption of a local option  
39 budget in excess of 25%.

40 (f) For the purposes of determining the total amount of state moneys  
41 paid to school districts, all moneys appropriated as supplemental general  
42 state aid shall be deemed to be state moneys for educational and support  
43 services for school districts.

- 1     Sec. 36. K.S.A. 2006 Supp. 72-8814 is hereby amended to read as  
2 follows: 72-8814. (a) There is hereby established in the state treasury the  
3 school district capital outlay state aid fund. Such fund shall consist of all  
4 amounts transferred thereto under the provisions of subsection (c).
- 5     (b) In each school year, each school district which levies a tax pur-  
6 suant to K.S.A. 72-8801 et seq., and amendments thereto, shall be entitled  
7 to receive payment from the school district capital outlay state aid fund  
8 in an amount determined by the state board of education as provided in  
9 this subsection. The state board of education shall:
- 10     (1) Determine the amount of the assessed valuation per pupil (AVPP)  
11 of each school district in the state and round such amount to the nearest  
12 \$1,000. The rounded amount is the AVPP of a school district for the  
13 purposes of this section;
- 14     (2) determine the median AVPP of all school districts;
- 15     (3) prepare a schedule of dollar amounts using the amount of the  
16 median AVPP of all school districts as the point of beginning. The sched-  
17 ule of dollar amounts shall range upward in equal \$1,000 intervals from  
18 the point of beginning to and including an amount that is equal to the  
19 amount of the AVPP of the school district with the highest AVPP of all  
20 school districts and shall range downward in equal \$1,000 intervals from  
21 the point of beginning to and including an amount that is equal to the  
22 amount of the AVPP of the school district with the lowest AVPP of all  
23 school districts;
- 24     (4) determine a state aid percentage factor for each school district by  
25 assigning a state aid computation percentage to the amount of the median  
26 AVPP shown on the schedule, decreasing the state aid computation per-  
27 centage assigned to the amount of the median AVPP by one percentage  
28 point for each \$1,000 interval above the amount of the median AVPP,  
29 and increasing the state aid computation percentage assigned to the  
30 amount of the median AVPP by one percentage point for each \$1,000  
31 interval below the amount of the median AVPP. Except as provided by  
32 K.S.A. 2006 Supp. 72-8814b, and amendments thereto, the state aid per-  
33 centage factor of a school district is the percentage assigned to the sched-  
34 ule amount that is equal to the amount of the AVPP of the school district,  
35 except that the state aid percentage factor of a school district shall not  
36 exceed 100%. The state aid computation percentage is 25%;
- 37     (5) determine the amount levied by each school district pursuant to  
38 K.S.A. 72-8801 et seq., and amendments thereto;
- 39     (6) multiply the amount computed under (5), but not to exceed 8  
40 mills, by the applicable state aid percentage factor. The product is the  
41 amount of payment the school district is entitled to receive from the  
42 school district capital outlay state aid fund in the school year.
- 43     (c) The state board shall certify to the director of accounts and reports

1 the entitlements of school districts determined under the provisions of  
2 subsection (b), and an amount equal thereto shall be transferred by the  
3 director from the state general fund to the school district capital outlay  
4 state aid fund for distribution to school districts. *All transfers made in*  
5 *accordance with the provisions of this subsection shall be considered to*  
6 *be demand transfers from the state general fund.*

7 (d) Payments from the school district capital outlay state aid fund  
8 shall be distributed to school districts at times determined by the state  
9 board of education. The state board of education shall certify to the di-  
10 rector of accounts and reports the amount due each school district enti-  
11 tled to payment from the fund, and the director of accounts and reports  
12 shall draw a warrant on the state treasurer payable to the treasurer of the  
13 school district. Upon receipt of the warrant, the treasurer of the school  
14 district shall credit the amount thereof to the capital outlay fund of the  
15 school district to be used for the purposes of such fund.

16 (e) *Amounts transferred to the capital outlay fund of a school district*  
17 *as authorized by K.S.A. 72-6433, and amendments thereto, shall not be*  
18 *included in the computation when determining the amount of state aid to*  
19 *which a district is entitled to receive under this section.*

20 Sec. 37. K.S.A. 2006 Supp. 74-2012, as amended by section 14 of  
21 2007 Senate Bill No. 9, is hereby amended to read as follows: 74-2012.

22 (a) (1) All motor vehicle records shall be subject to the provisions of the  
23 open records act, except as otherwise provided under the provisions of  
24 this section and by K.S.A. 74-2022, and amendments thereto.

25 (2) For the purpose of this section, “motor vehicle records” means  
26 any record that pertains to a motor vehicle drivers license, motor vehicle  
27 certificate of title, motor vehicle registration or identification card issued  
28 by the division of vehicles.

29 (b) All motor vehicle records which ~~(1)~~ relate to the physical or men-  
30 tal condition of any person, ~~(2)~~, have been expunged; or (3) are photo-  
31 graphs or digital images maintained in connection with the issuance of  
32 drivers’ licenses shall be confidential and shall not be disclosed except in  
33 accordance with a proper judicial order or as otherwise more specifically  
34 provided in this section or by other law. Photographs or digital images  
35 maintained by the division of vehicles in connection with the issuance of  
36 drivers’ licenses may be disclosed to any federal, state or local agency,  
37 including any court or law enforcement agency, to assist such agency in  
38 carrying out the functions required of such governmental agency. In Jan-  
39 uary of each year the division shall report to the house committee on  
40 veterans, military and homeland security regarding the utilization of the  
41 provisions of this subsection. Motor vehicle records relating to diversion  
42 agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and  
43 amendments thereto, shall be confidential and shall not be disclosed ex-



1 cept in accordance with a proper judicial order or by direct computer  
2 access to:

3 (1) A city, county or district attorney, for the purpose of determining  
4 a person's eligibility for diversion or to determine the proper charge for  
5 a violation of K.S.A. 8-1567, and amendments thereto, or any ordinance  
6 of a city or resolution of a county in this state which prohibits any acts  
7 prohibited by K.S.A. 8-1567, and amendments thereto;

8 (2) a municipal or district court, for the purpose of using the record  
9 in connection with any matter before the court;

10 (3) a law enforcement agency, for the purpose of supplying the record  
11 to a person authorized to obtain it under paragraph (1) or (2) of this  
12 subsection; or

13 (4) an employer when a person is required to retain a commercial  
14 driver's license due to the nature of such person's employment.

15 (c) Lists of persons' names and addresses contained in or derived  
16 from motor vehicle records shall not be sold, given or received for the  
17 purposes prohibited by K.S.A. 2006 Supp. 45-230, and amendments  
18 thereto, except that:

19 (1) The director of vehicles may provide to a requesting party, and a  
20 requesting party may receive, such a list and accompanying information  
21 from motor vehicle records upon written certification that the requesting  
22 party shall use the list solely for the purpose of:

23 (A) Assisting manufacturers of motor vehicles in compiling statistical  
24 reports or in notifying owners of vehicles believed to:

25 (i) Have safety-related defects,

26 (ii) fail to comply with emission standards; or

27 (iii) have any defect to be remedied at the expense of the manufac-  
28 turer;

29 (B) assisting an insurer authorized to do business in this state, or the  
30 insurer's authorized agent:

31 (i) In processing an application for, or renewal or cancellation of, a  
32 motor vehicle liability insurance policy; or

33 (ii) in conducting antifraud activities by identifying potential undis-  
34 closed drivers of a motor vehicle currently insured by an insurer licensed  
35 to do business in this state by providing only the following information:  
36 drivers license number, license type, date of birth, name, address, issue  
37 date and expiration date;

38 (C) assisting the selective service system in the maintenance of a list  
39 of persons 18 to 26 years of age in this state as required under the pro-  
40 visions of section 3 of the federal military selective service act;

41 (D) assisting any federal, state or local agency, including any court or  
42 law enforcement agency, or any private person acting on behalf of such  
43 agencies in carrying out the functions required of such governmental

1 agency, except that such records shall not be redisclosed;

2 (E) assisting businesses with the verification or reporting of infor-  
3 mation derived from the title and registration records of the division to  
4 prepare and assemble vehicle history reports, except that such vehicle  
5 history reports shall not include the names or addresses of any current or  
6 previous owners; ~~or~~

7 (F) assisting businesses in producing motor vehicle title or motor ve-  
8 hicle registration, or both, statistical reports, so long as personal infor-  
9 mation is not published, redisclosed or used to contact individuals; *or*

10 (G) *assisting an employer or an employer's authorized agent in mon-*  
11 *itoring the driving record of the employees required to drive in the course*  
12 *of employment to ensure driver behavior, performance or safety.*

13 (2) Any law enforcement agency of this state which has access to  
14 motor vehicle records may furnish to a requesting party, and a requesting  
15 party may receive, such a list and accompanying information from such  
16 records upon written certification that the requesting party shall use the  
17 list solely for the purpose of assisting an insurer authorized to do business  
18 in this state, or the insurer's authorized agent, in processing an application  
19 for, or renewal or cancellation of, a motor vehicle liability insurance pol-  
20 icy.

21 (d) If a law enforcement agency of this state furnishes information to  
22 a requesting party pursuant to paragraph (2) of subsection (c), the law  
23 enforcement agency shall charge the fee prescribed by the secretary of  
24 revenue pursuant to K.S.A. 74-2022, and amendments thereto, for any  
25 copies furnished and may charge an additional fee to be retained by the  
26 law enforcement agency to cover its cost of providing such copies. The  
27 fee prescribed pursuant to K.S.A. 74-2022, and amendments thereto,  
28 shall be paid monthly to the secretary of revenue and upon receipt thereof  
29 shall be deposited in the state treasury to the credit of the electronic  
30 databases fee fund, except for the \$1 of the fee for each record required  
31 to be credited to the highway patrol training center fund under subsection  
32 (f).

33 (e) The secretary of revenue, the secretary's agents or employees, the  
34 director of vehicles or the director's agents or employees shall not be  
35 liable for damages caused by any negligent or wrongful act or omission  
36 of a law enforcement agency in furnishing any information obtained from  
37 motor vehicle records.

38 (f) A fee in an amount fixed by the secretary of revenue pursuant to  
39 K.S.A. 74-2022, and amendments thereto, of not less than \$2 for each  
40 full or partial motor vehicle record shall be charged by the division, except  
41 that the director may charge a lesser fee pursuant to a contract between  
42 the secretary of revenue and any person to whom the director is author-  
43 ized to furnish information under paragraph (1) of subsection (c), and

1 such fee shall not be less than the cost of production or reproduction of  
2 any full or partial motor vehicle record requested. Except for the fees  
3 charged pursuant to a contract for motor vehicle records authorized by  
4 this subsection pertaining to motor vehicle titles or motor vehicle regis-  
5 trations or pursuant to subsection (c)(1)(B)(ii) or (c)(1)(D), \$1 shall be  
6 credited to the highway patrol training center fund for each motor vehicle  
7 record provided by the division of vehicles.

8 (g) The secretary of revenue may adopt such rules and regulations as  
9 are necessary to implement the provisions of this section.

10 Sec. 38. K.S.A. 2006 Supp. 74-5602, as amended by section 15 of  
11 2007 Senate Bill No. 9, is hereby amended to read as follows: 74-5602.  
12 As used in the Kansas law enforcement training act:

13 (a) "Training center" means the law enforcement training center  
14 within the division of continuing education of the university of Kansas,  
15 created by K.S.A. 74-5603 and amendments thereto.

16 (b) "Commission" means the Kansas commission on peace officers'  
17 standards and training, created by K.S.A. 74-5606 and amendments  
18 thereto.

19 (c) "Dean" means the dean of continuing education of the university  
20 of Kansas.

21 (d) "Director of police training" means the director of police training  
22 at the law enforcement training center.

23 (e) "Director" means the executive director of the Kansas commis-  
24 sion on peace officers' standards and training.

25 (f) "Law enforcement" means the prevention or detection of crime  
26 and the enforcement of the criminal or traffic laws of this state or of any  
27 municipality thereof.

28 (g) "Police officer" or "law enforcement officer" means a full-time or  
29 part-time salaried officer or employee of the state, a county or a city,  
30 whose duties include the prevention or detection of crime and the en-  
31 forcement of the criminal or traffic laws of this state or of any municipality  
32 thereof. Such terms shall include, but not be limited to, the sheriff, un-  
33 dersheriff and full-time or part-time salaried deputies in the sheriff's of-  
34 fice in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858  
35 and amendments thereto; conservation officers of the Kansas department  
36 of wildlife and parks; university police officers, as defined in K.S.A. 22-  
37 2401a, and amendments thereto; campus police officers, as defined in  
38 K.S.A. 22-2401a, and amendments thereto; law enforcement agents of  
39 the director of alcoholic beverage control; law enforcement agents des-  
40 ignated by the secretary of revenue pursuant to section 2 of 2007 Senate  
41 Bill No. 9, and amendments thereto; law enforcement agents of the Kan-  
42 sas lottery; law enforcement agents of the Kansas racing commission;  
43 deputies and assistants of the state fire marshal having law enforcement

1 authority; capitol police, existing under the authority of K.S.A. 75-4503  
2 and amendments thereto; *and law enforcement officers appointed by the*  
3 *adjutant general pursuant to K.S.A. 48-204, and amendments thereto.*  
4 Such terms shall also include railroad policemen appointed pursuant to  
5 K.S.A. 66-524 and amendments thereto; school security officers desig-  
6 nated as school law enforcement officers pursuant to K.S.A. 72-8222 and  
7 amendments thereto; and the director of the Kansas commission on peace  
8 officers' standards and training and any other employee of such commis-  
9 sion designated by the director pursuant to K.S.A. 74-5603, and amend-  
10 ments thereto, as a law enforcement officer. Such terms shall not include  
11 any elected official, other than a sheriff, serving in the capacity of a law  
12 enforcement or police officer solely by virtue of such official's elected  
13 position; any attorney-at-law having responsibility for law enforcement  
14 and discharging such responsibility solely in the capacity of an attorney;  
15 any employee of the commissioner of juvenile justice, the secretary of  
16 corrections or the secretary of social and rehabilitation services; any dep-  
17 uty conservation officer of the Kansas department of wildlife and parks;  
18 or any employee of a city or county who is employed solely to perform  
19 correctional duties related to jail inmates and the administration and op-  
20 eration of a jail; or any full-time or part-time salaried officer or employee  
21 whose duties include the issuance of a citation or notice to appear pro-  
22 vided such officer or employee is not vested by law with the authority to  
23 make an arrest for violation of the laws of this state or any municipality  
24 thereof, and is not authorized to carry firearms when discharging the  
25 duties of such person's office or employment. Such term shall include  
26 any officer appointed or elected on a provisional basis.

27 (h) "Full-time" means employment requiring at least 1,000 hours of  
28 law enforcement related work per year.

29 (i) "Part-time" means employment on a regular schedule or employ-  
30 ment which requires a minimum number of hours each payroll period,  
31 but in any case requiring less than 1,000 hours of law enforcement related  
32 work per year.

33 (j) "Misdemeanor crime of domestic violence" means a violation of  
34 domestic battery as provided by K.S.A. 2006 Supp. 21-3412a and amend-  
35 ments thereto, or any other misdemeanor under federal, municipal or  
36 state law that has as an element the use or attempted use of physical  
37 force, or the threatened use of a deadly weapon, committed by a current  
38 or former spouse, parent, or guardian of the victim, by a person with  
39 whom the victim shares a child in common, by a person who is cohabiting  
40 with or has cohabited with the victim as a spouse, parent or guardian, or  
41 by a person similarly situated to a spouse, parent or guardian of the victim.

42 (k) "Auxiliary personnel" means members of organized nonsalaried  
43 groups which operate as an adjunct to a police or sheriff's department,

1 including reserve officers, posses and search and rescue groups.

2 (1) “Active law enforcement certificate” means a certificate which at-  
3 tests to the qualification of a person to perform the duties of a law en-  
4 forcement officer and which has not been suspended or revoked by action  
5 of the Kansas commission on peace officers’ standards and training and  
6 has not lapsed by operation of law as provided in K.S.A. 74-5622, and  
7 amendments thereto.

8 Sec. 39. K.S.A. 2006 Supp. 74-4902 is hereby amended to read as  
9 follows: 74-4902. As used in articles 49 and 49a of chapter 74 and amend-  
10 ments thereto, unless otherwise provided or the context otherwise re-  
11 quires:

12 (1) “Accumulated contributions” means the sum of all contributions  
13 by a member to the system which are credited to the member’s account,  
14 with interest allowed thereon;

15 (2) “acts” means the provisions of articles 49 and 49a of the Kansas  
16 Statutes Annotated and amendments thereto;

17 (3) “actuarial equivalent” means an annuity or benefit of equal value  
18 to the accumulated contributions, annuity or benefit, when computed  
19 upon the basis of the actuarial tables in use by the system. Whenever the  
20 amount of any benefit is to be determined on the basis of actuarial as-  
21 sumptions, the assumptions shall be specified in a way that precludes  
22 employer discretion;

23 (4) “actuarial tables” means the actuarial tables approved and in use  
24 by the board at any given time;

25 (5) “actuary” means the actuary or firm of actuaries employed or  
26 retained by the board at any given time;

27 (6) “agent” means the individual designated by each participating em-  
28 ployer through whom system transactions and communication are di-  
29 rected;

30 (7) “beneficiary” means, subject to the provisions of K.S.A. 74-4927,  
31 and amendments thereto, any natural person or persons, estate or trust,  
32 or any combination thereof, named by a member to receive any benefits  
33 as provided for by this act. Designations of beneficiaries by a member  
34 who is a member of more than one retirement system made on or after  
35 July 1, 1987, shall be the basis of any benefits payable under all systems  
36 unless otherwise provided by law. Except as otherwise provided by sub-  
37 section (33) of this section, if there is no named beneficiary living at time  
38 of member’s death, any benefits provided for by this act shall be paid to:  
39 (A) The member’s surviving spouse; (B) the member’s dependent child  
40 or children; (C) the member’s dependent parent or parents; (D) the  
41 member’s nondependent child or children; (E) the member’s nondepen-  
42 dent parent or parents; (F) the estate of the deceased member; in the  
43 order of preference as specified in this subsection;

1 (8) “board of trustees,” “board” or “trustees” means the managing  
2 body of the system which is known as the Kansas public employees re-  
3 tirement system board of trustees;

4 (9) “compensation” means, except as otherwise provided, all salary,  
5 wages and other remuneration payable to a member for personal services  
6 performed for a participating employer, including maintenance or any  
7 allowance in lieu thereof provided a member as part of compensation,  
8 but not including reimbursement for travel or moving expenses or on and  
9 after July 1, 1994, payment pursuant to an early retirement incentive  
10 program made prior to the retirement of the member. Beginning with  
11 the employer’s fiscal year which begins in calendar year 1991 or for em-  
12 ployers other than the state of Kansas, beginning with the fiscal year  
13 which begins in calendar year 1992, when the compensation of a member  
14 who remains in substantially the same position during any two consecutive  
15 years of participating service used in calculating final average salary is  
16 increased by an amount which exceeds 15%, then the amount of such  
17 increase which exceeds 15% shall not be included in compensation, ex-  
18 cept that (A) any amount of compensation for accumulated sick leave or  
19 vacation or annual leave paid to the member, (B) any increase in com-  
20 pensation for any member due to a reclassification or reallocation of such  
21 member’s position or a reassignment of such member’s job classification  
22 to a higher range or level and (C) any increase in compensation as pro-  
23 vided in any contract entered into prior to January 1, 1991, and still in  
24 force on the effective date of this act, pursuant to an early retirement  
25 incentive program as provided in K.S.A. 72-5395 et seq., and amendments  
26 thereto, shall be included in the amount of compensation of such member  
27 used in determining such member’s final average salary and shall not be  
28 subject to the 15% limitation provided in this subsection. Any contribu-  
29 tions by such member on the amount of such increase which exceeds  
30 15% which is not included in compensation shall be returned to the mem-  
31 ber. Unless otherwise provided by law, beginning with the employer’s  
32 fiscal year coinciding with or following July 1, 1985, compensation shall  
33 include any amounts for tax sheltered annuities or deferred compensation  
34 plans. Beginning with the employer’s fiscal year which begins in calendar  
35 year 1991, compensation shall include amounts under sections 403b, 457  
36 and 125 of the federal internal revenue code of 1986 and, as the board  
37 deems appropriate, any other section of the federal internal revenue code  
38 of 1986 which defers or excludes amounts from inclusion in income. For  
39 purposes of applying limits under the federal internal revenue code “com-  
40 pensation” shall have the meaning as provided in K.S.A. 74-49,123 and  
41 amendments thereto. *For purposes of this subsection and application to*  
42 *the provisions of subsection (4) of K.S.A. 74-4927, and amendments*  
43 *thereto, “compensation” shall not include any payments made by the state*

1 *board of regents pursuant to the provisions of subsection (5) of K.S.A. 74-*  
2 *4927a, and amendments thereto, to a member of the faculty or other*  
3 *person defined in subsection (1)(a) of K.S.A. 74-4925, and amendments*  
4 *thereto;*

5 (10) “credited service” means the sum of participating service and  
6 prior service and in no event shall credited service include any service  
7 which is credited under another retirement plan authorized under any  
8 law of this state;

9 (11) “dependent” means a parent or child of a member who is de-  
10 pendent upon the member for at least ½ of such parent or child’s support;

11 (12) “effective date” means the date upon which the system becomes  
12 effective by operation of law;

13 (13) “eligible employer” means the state of Kansas, and any county,  
14 city, township, special district or any instrumentality of any one or several  
15 of the aforementioned or any noncommercial public television or radio  
16 station located in this state which receives state funds allocated by the  
17 Kansas public broadcasting commission whose employees are covered by  
18 social security. If a class or several classes of employees of any above  
19 defined employer are not covered by social security, such employer shall  
20 be deemed an eligible employer only with respect to such class or those  
21 classes of employees who are covered by social security;

22 (14) “employee” means any appointed or elective officer or employee  
23 of a participating employer whose employment is not seasonal or tem-  
24 porary and whose employment requires at least 1,000 hours of work per  
25 year, and any such officer or employee who is concurrently employed  
26 performing similar or related tasks by two or more participating employ-  
27 ers, who each remit employer and employee contributions on behalf of  
28 such officer or employee to the system, and whose combined employment  
29 is not seasonal or temporary, and whose combined employment requires  
30 at least 1,000 hours of work per year, but not including: (A) Any employee  
31 who is a contributing member of the United States civil service retirement  
32 system; (B) any employee who is a contributing member of the federal  
33 employees retirement system; (C) any employee who is a leased employee  
34 as provided in section 414 of the federal internal revenue code of a par-  
35 ticipating employer; and (D) any employee or class of employees specif-  
36 ically exempted by law. After June 30, 1975, no person who is otherwise  
37 eligible for membership in the Kansas public employees retirement sys-  
38 tem shall be barred from such membership by reason of coverage by,  
39 eligibility for or future eligibility for a retirement annuity under the pro-  
40 visions of K.S.A. 74-4925 and amendments thereto, except that no person  
41 shall receive service credit under the Kansas public employees retirement  
42 system for any period of service for which benefits accrue or are granted  
43 under a retirement annuity plan under the provisions of K.S.A. 74-4925

1 and amendments thereto. After June 30, 1982, no person who is otherwise  
2 eligible for membership in the Kansas public employees retirement sys-  
3 tem shall be barred from such membership by reason of coverage by,  
4 eligibility for or future eligibility for any benefit under another retirement  
5 plan authorized under any law of this state, except that no such person  
6 shall receive service credit under the Kansas public employees retirement  
7 system for any period of service for which any benefit accrues or is  
8 granted under any such retirement plan. Employee shall include persons  
9 who are in training at or employed by, or both, a sheltered workshop for  
10 the blind operated by the secretary of social and rehabilitation services.  
11 The entry date for such persons shall be the beginning of the first pay  
12 period of the fiscal year commencing in calendar year 1986. Such persons  
13 shall be granted prior service credit in accordance with K.S.A. 74-4913  
14 and amendments thereto. However, such persons classified as home in-  
15 dustry employees shall not be covered by the retirement system. Em-  
16 ployees shall include any member of a board of county commissioners of  
17 any county and any council member or commissioner of a city whose  
18 compensation is equal to or exceeds \$5,000 per year;

19 (15) "entry date" means the date as of which an eligible employer  
20 joins the system. The first entry date pursuant to this act is January 1,  
21 1962;

22 (16) "executive director" means the managing officer of the system  
23 employed by the board under this act;

24 (17) "final average salary" means in the case of a member who retires  
25 prior to January 1, 1977, and in the case of a member who retires after  
26 January 1, 1977, and who has less than five years of participating service  
27 after January 1, 1967, the average highest annual compensation paid to  
28 such member for any five years of the last 10 years of participating service  
29 immediately preceding retirement or termination of employment, or in  
30 the case of a member who retires on or after January 1, 1977, and who  
31 has five or more years of participating service after January 1, 1967, the  
32 average highest annual compensation paid to such member on or after  
33 January 1, 1967, for any five years of participating service preceding re-  
34 tirement or termination of employment, or, in any case, if participating  
35 service is less than five years, then the average annual compensation paid  
36 to the member during the full period of participating service, or, in any  
37 case, if the member has less than one calendar year of participating service  
38 such member's final average salary shall be computed by multiplying such  
39 member's highest monthly salary received in that year by 12; in the case  
40 of a member who became a member under subsection (3) of K.S.A. 74-  
41 4925 and amendments thereto, or who became a member with a partic-  
42 ipating employer as defined in subsection (3) of K.S.A. 74-4931 and  
43 amendments thereto and who elects to have compensation paid in other



1 than 12 equal installments, such compensation shall be annualized as if  
2 the member had elected to receive 12 equal installments for any such  
3 periods preceding retirement; in the case of a member who retires after  
4 July 1, 1987, the average highest annual compensation paid to such mem-  
5 ber for any four years of participating service preceding retirement or  
6 termination of employment; in the case of a member who retires on or  
7 after July 1, 1993, whose date of membership in the system is prior to  
8 July 1, 1993, and any member who is in such member's membership  
9 waiting period on July 1, 1993, and whose date of membership in the  
10 system is on or after July 1, 1993, the average highest annual compen-  
11 sation, as defined in subsection (9), paid to such member for any four  
12 years of participating service preceding retirement or termination of em-  
13 ployment or the average highest annual salary, as defined in subsection  
14 (34), paid to such member for any three years of participating service  
15 preceding retirement or termination of employment, whichever is  
16 greater; and in the case of a member who retires on or after July 1, 1993,  
17 and whose date of membership in the system is on or after July 1, 1993,  
18 the average highest annual salary, as defined in subsection (34), paid to  
19 such member for any three years of participating service preceding re-  
20 tirement or termination of employment. Final average salary shall not  
21 include any purchase of participating service credit by a member as pro-  
22 vided in subsection (2) of K.S.A. 74-4919h and amendments thereto  
23 which is completed within five years of retirement. For any application  
24 to purchase or repurchase service credit for a certain period of service as  
25 provided by law received by the system after May 17, 1994, for any mem-  
26 ber who will have contributions deducted from such member's compen-  
27 sation at a percentage rate equal to two or three times the employee's  
28 rate of contribution or will begin paying to the system a lump-sum amount  
29 for such member's purchase or repurchase and such deductions or lump-  
30 sum payment commences after the commencement of the first payroll  
31 period in the third quarter, "final average salary" shall not include any  
32 amount of compensation or salary which is based on such member's pur-  
33 chase or repurchase. Any application to purchase or repurchase multiple  
34 periods of service shall be treated as multiple applications. For purposes  
35 of this subsection, the date that such member is first hired as an employee  
36 for members who are employees of employers that elected to participate  
37 in the system on or after January 1, 1994, shall be the date that such  
38 employee's employer elected to participate in the system. In the case of  
39 any former member who was eligible for assistance pursuant to K.S.A.  
40 74-4925 and amendments thereto prior to July 1, 1998, for the purpose  
41 of calculating final average salary of such member, such member's final  
42 average salary shall be based on such member's salary while a member  
43 of the system or while eligible for assistance pursuant to K.S.A. 74-4925

- 1 and amendments thereto, whichever is greater;
- 2 (18) “fiscal year” means, for the Kansas public employees retirement  
3 system, the period commencing July 1 of any year and ending June 30 of  
4 the next;
- 5 (19) “Kansas public employees retirement fund” means the fund cre-  
6 ated by this act for payment of expenses and benefits under the system  
7 and referred to as the fund;
- 8 (20) “leave of absence” means a period of absence from employment  
9 without pay, authorized and approved by the employer, and which after  
10 the effective date does not exceed one year;
- 11 (21) “member” means an eligible employee who is in the system and  
12 is making the required employee contributions; any former employee who  
13 has made the required contributions to the system and has not received  
14 a refund if such member is within five years of termination of employment  
15 with a participating employer; or any former employee who has made the  
16 required contributions to the system, has not yet received a refund and  
17 has been granted a vested benefit;
- 18 (22) “military service” means service in the uniformed forces of the  
19 United States, for which retirement benefit credit must be given under  
20 the provisions of USERRA or service in the armed forces of the United  
21 States or in the commissioned corps of the United States public health  
22 service, which service is immediately preceded by a period of employ-  
23 ment as an employee or by the entering into of an employment contract  
24 with a participating employer and is followed by return to employment  
25 as an employee with the same or another participating employer within  
26 12 months immediately following discharge from such military service,  
27 except that if the board determines that such return within 12 months  
28 was made impossible by reason of a service-connected disability, the pe-  
29 riod within which the employee must return to employment with a par-  
30 ticipating employer shall be extended not more than two years from the  
31 date of discharge or separation from military service;
- 32 (23) “normal retirement date” means the date on or after which a  
33 member may retire with full retirement benefits pursuant to K.S.A. 74-  
34 4914 and amendments thereto;
- 35 (24) “participating employer” means an eligible employer who has  
36 agreed to make contributions to the system on behalf of its employees;
- 37 (25) “participating service” means the period of employment after  
38 the entry date for which credit is granted a member;
- 39 (26) “prior service” means the period of employment of a member  
40 prior to the entry date for which credit is granted a member under this  
41 act;
- 42 (27) “prior service annual salary” means the highest annual salary,  
43 not including any amounts received as payment for overtime or as re-

- 1    imbursement for travel or moving expense, received for personal services  
2    by the member from the current employer in any one of the three cal-  
3    endar years immediately preceding January 1, 1962, or the entry date of  
4    the employer, whichever is later, except that if a member entered the  
5    employment of the state during the calendar year 1961, the prior service  
6    annual salary shall be computed by multiplying such member's highest  
7    monthly salary received in that year by 12;
- 8    (28) "retirant" means a member who has retired under this system;
- 9    (29) "retirement benefit" means a monthly income or the actuarial  
10   equivalent thereof paid in such manner as specified by the member pur-  
11   suant to this act or as otherwise allowed to be paid at the discretion of  
12   the board, with benefits accruing from the first day of the month coin-  
13   ciding with or following retirement and ending on the last day of the  
14   month in which death occurs. Upon proper identification a surviving  
15   spouse may negotiate the warrant issued in the name of the retirant. If  
16   there is no surviving spouse, the last warrant shall be payable to the des-  
17   ignated beneficiary;
- 18   (30) "retirement system" or "system" means the Kansas public em-  
19   ployees retirement system as established by this act and as it may be  
20   amended;
- 21   (31) "social security" means the old age, survivors and disability in-  
22   surance section of the federal social security act;
- 23   (32) "trust" means an express trust, created by a trust instrument,  
24   including a will, designated by a member to receive payment of the in-  
25   sured death benefit under K.S.A. 74-4927 and amendments thereto and  
26   payment of the member's accumulated contributions under subsection  
27   (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust  
28   shall be filed with the board. If no will is admitted to probate within six  
29   months after the death of the member or no trustee qualifies within such  
30   six months or if the designated trust fails, for any reason whatsoever, the  
31   insured death benefit under K.S.A. 74-4927 and amendments thereto and  
32   the member's accumulated contributions under subsection (1) of K.S.A.  
33   74-4916 and amendments thereto shall be paid in accordance with the  
34   provisions of subsection (7) of this section as in other cases where there  
35   is no named beneficiary living at the time of the member's death and any  
36   payments so made shall be a full discharge and release to the system from  
37   any further claims;
- 38   (33) "salary" means all salary and wages payable to a member for  
39   personal services performed for a participating employer, including main-  
40   tenance or any allowance in lieu thereof provided a member as part of  
41   salary. Salary shall not include reimbursement for travel or moving ex-  
42   penses, payment for accumulated sick leave or vacation or annual leave,  
43   severance pay or any other payments to the member determined by the

1 board to not be payments for personal services performed for a partici-  
2 participating employer constituting salary or on and after July 1, 1994, payment  
3 pursuant to an early retirement incentive program made prior to the  
4 retirement of the member. When the salary of a member who remains  
5 in substantially the same position during any two consecutive years of  
6 participating service used in calculating final average salary is increased  
7 by an amount which exceeds 15%, then the amount of such increase  
8 which exceeds 15% shall not be included in salary. Any contributions by  
9 such member on the amount of such increase which exceeds 15% which  
10 is not included in compensation shall be returned to the member. Unless  
11 otherwise provided by law, salary shall include any amounts for tax shel-  
12 tered annuities or deferred compensation plans. Salary shall include  
13 amounts under sections 403b, 457 and 125 of the federal internal revenue  
14 code of 1986 and, as the board deems appropriate, any other section of  
15 the federal internal revenue code of 1986 which defers or excludes  
16 amounts from inclusion in income. For purposes of applying limits under  
17 the federal internal revenue code "salary" shall have the meaning as pro-  
18 vided in K.S.A. 74-49,123 and amendments thereto. In any case, if par-  
19 ticipating service is less than three years, then the average annual salary  
20 paid to the member during the full period of participating service, or, in  
21 any case, if the member has less than one calendar year of participating  
22 service such member's final average salary shall be computed by multi-  
23 plying such member's highest monthly salary received in that year by 12;  
24 (34) "federal internal revenue code" means the federal internal rev-  
25 enue code of 1954 or 1986, as in effect on July 1, 2002, and as applicable  
26 to a governmental plan; and  
27 (35) "USERRA" means the federal uniformed services employment  
28 and reemployment rights act of 1994 as in effect on July 1, 1998.  
29 Sec. 40. K.S.A. 2006 Supp. 74-7336, as amended by section 17 of  
30 2007 Senate Bill No. 8, is hereby amended to read as follows: 74-7336.  
31 (a) Of the remittances of fines, penalties and forfeitures received from  
32 clerks of the district court, at least monthly, the state treasurer shall credit:  
33 (1) 11.99% to the crime victims compensation fund;  
34 (2) 2.45% to the crime victims assistance fund;  
35 (3) ~~2.01%~~ 3.01% to the community alcoholism and intoxication pro-  
36 grams fund;  
37 (4) 2.01% to the department of corrections alcohol and drug abuse  
38 treatment fund;  
39 (5) 0.17% to the boating fee fund;  
40 (6) 0.12% to the children's advocacy center fund;  
41 (7) 2.50% to the EMS revolving fund;  
42 (8) 2.50% to the trauma fund;  
43 (9) 2.50% to the traffic records enhancement fund; and

- 1 (10) the remainder of the remittances to the state general fund.
- 2 (b) The county treasurer shall deposit grant moneys as provided in  
3 subsection (a), from the crime victims assistance fund, to the credit of a  
4 special fund created for use by the county or district attorney in estab-  
5 lishing and maintaining programs to aid witnesses and victims of crime.
- 6 Sec. 41. K.S.A. 2006 Supp. 75-2319 is hereby amended to read as  
7 follows: 75-2319. (a) There is hereby established in the state treasury the  
8 school district capital improvements fund. The fund shall consist of all  
9 amounts transferred thereto under the provisions of subsection (c).
- 10 (b) Subject to the provisions of subsection (f), in each school year,  
11 each school district which is obligated to make payments from its capital  
12 improvements fund shall be entitled to receive payment from the school  
13 district capital improvements fund in an amount determined by the state  
14 board of education as provided in this subsection. The state board of  
15 education shall:
- 16 (1) Determine the amount of the assessed valuation per pupil (AVPP)  
17 of each school district in the state and round such amount to the nearest  
18 \$1,000. The rounded amount is the AVPP of a school district for the  
19 purposes of this section;
- 20 (2) determine the median AVPP of all school districts;
- 21 (3) prepare a schedule of dollar amounts using the amount of the  
22 median AVPP of all school districts as the point of beginning. The sched-  
23 ule of dollar amounts shall range upward in equal \$1,000 intervals from  
24 the point of beginning to and including an amount that is equal to the  
25 amount of the AVPP of the school district with the highest AVPP of all  
26 school districts and shall range downward in equal \$1,000 intervals from  
27 the point of beginning to and including an amount that is equal to the  
28 amount of the AVPP of the school district with the lowest AVPP of all  
29 school districts;
- 30 (4) determine a state aid percentage factor for each school district by  
31 assigning a state aid computation percentage to the amount of the median  
32 AVPP shown on the schedule, decreasing the state aid computation per-  
33 centage assigned to the amount of the median AVPP by one percentage  
34 point for each \$1,000 interval above the amount of the median AVPP,  
35 and increasing the state aid computation percentage assigned to the  
36 amount of the median AVPP by one percentage point for each \$1,000  
37 interval below the amount of the median AVPP. *Except as provided by*  
38 *K.S.A. 2006 Supp. 75-2319c, and amendments thereto*, the state aid per-  
39 centage factor of a school district is the percentage assigned to the sched-  
40 ule amount that is equal to the amount of the AVPP of the school district;  
41 ~~except that~~ The state aid percentage factor of a school district shall not  
42 exceed 100%. The state aid computation percentage is 5% for contractual  
43 bond obligations incurred by a school district prior to the effective date

1 of this act, and 25% for contractual bond obligations incurred by a school  
2 district on or after the effective date of this act;

3 (5) determine the amount of payments in the aggregate that a school  
4 district is obligated to make from its bond and interest fund and, of such  
5 amount, compute the amount attributable to contractual bond obligations  
6 incurred by the school district prior to the effective date of this act and  
7 the amount attributable to contractual bond obligations incurred by the  
8 school district on or after the effective date of this act;

9 (6) multiply each of the amounts computed under (5) by the appli-  
10 cable state aid percentage factor; and

11 (7) add the products obtained under (6). The amount of the sum is  
12 the amount of payment the school district is entitled to receive from the  
13 school district capital improvements fund in the school year.

14 (c) The state board of education shall certify to the director of ac-  
15 counts and reports the entitlements of school districts determined under  
16 the provisions of subsection (b), and an amount equal thereto shall be  
17 transferred by the director from the state general fund to the school  
18 district capital improvements fund for distribution to school districts. All  
19 transfers made in accordance with the provisions of this subsection shall  
20 be considered to be demand transfers from the state general fund, ~~except~~  
21 ~~that all such transfers during the fiscal years ending June 30, 2006 and~~  
22 ~~June 30, 2007, shall be considered to be revenue transfers from the state~~  
23 ~~general fund~~ *except that all such transfers during the fiscal year ending*  
24 *June 30, 2007, shall be considered to be revenue transfers from the state*  
25 *general fund.*

26 (d) Payments from the school district capital improvements fund shall  
27 be distributed to school districts at times determined by the state board  
28 of education to be necessary to assist school districts in making scheduled  
29 payments pursuant to contractual bond obligations. The state board of  
30 education shall certify to the director of accounts and reports the amount  
31 due each school district entitled to payment from the fund, and the di-  
32 rector of accounts and reports shall draw a warrant on the state treasurer  
33 payable to the treasurer of the school district. Upon receipt of the warrant,  
34 the treasurer of the school district shall credit the amount thereof to the  
35 bond and interest fund of the school district to be used for the purposes  
36 of such fund.

37 (e) The provisions of this section apply only to contractual obligations  
38 incurred by school districts pursuant to general obligation bonds issued  
39 upon approval of a majority of the qualified electors of the school district  
40 voting at an election upon the question of the issuance of such bonds.

41 (f) Amounts transferred to the capital improvements fund of a school  
42 district as authorized by K.S.A. 72-6433, and amendments thereto, shall  
43 not be included in the computation when determining the amount of

1 state aid to which a district is entitled to receive under this section.

2 Sec. 42. K.S.A. 2006 Supp. 75-5220 is hereby amended to read as  
3 follows: 75-5220. (a) Except as provided in subsection (d), within three  
4 business days of receipt of the notice provided for in K.S.A. 75-5218 and  
5 amendments thereto, the secretary of corrections shall notify the sheriff  
6 having such offender in custody to convey such offender immediately to  
7 the department of corrections reception and diagnostic unit or if space is  
8 not available at such facility, then to some other state correctional insti-  
9 tution until space at the facility is available, except that, in the case of  
10 first offenders who are conveyed to a state correctional institution other  
11 than the reception and diagnostic unit, such offenders shall be segregated  
12 from the inmates of such correctional institution who are not being held  
13 in custody at such institution pending transfer to the reception and di-  
14 agnostic unit when space is available therein. The expenses of any such  
15 conveyance shall be charged against and paid out of the general fund of  
16 the county whose sheriff conveys the offender to the institution as pro-  
17 vided in this subsection.

18 (b) Any female offender sentenced according to the provisions of  
19 K.S.A. 75-5229 and amendments thereto shall be conveyed by the sheriff  
20 having such offender in custody directly to a correctional institution des-  
21 ignated by the secretary of corrections, subject to the provisions of K.S.A.  
22 75-52,134 and amendments thereto. The expenses of such conveyance to  
23 the designated institution shall be charged against and paid out of the  
24 general fund of the county whose sheriff conveys such female offender  
25 to such institution.

26 (c) Each offender conveyed to a state correctional institution pursu-  
27 ant to this section shall be accompanied by the record of the offender's  
28 trial and conviction as prepared by the clerk of the district court in ac-  
29 cordance with K.S.A. 75-5218 and amendments thereto.

30 (d) If the offender in the custody of the secretary is a juvenile, as  
31 described in K.S.A. ~~38-16,111~~ 2006 Supp. 38-2366, and amendments  
32 thereto, such juvenile shall not be transferred to the state reception and  
33 diagnostic center until such time as such juvenile is to be transferred from  
34 a juvenile correctional facility to a department of corrections institution  
35 or facility.

36 Sec. 43. K.S.A. 2006 Supp. 75-7023 is hereby amended to read as  
37 follows: 75-7023. (a) The supreme court through administrative orders  
38 shall provide for the establishment of a juvenile intake and assessment  
39 system and for the establishment and operation of juvenile intake and  
40 assessment programs in each judicial district. On and after July 1, 1997,  
41 the secretary of social and rehabilitation services may contract with the  
42 commissioner of juvenile justice to provide for the juvenile intake and  
43 assessment system and programs for children in need of care. Except as

1 provided further, on and after July 1, 1997, the commissioner of juvenile  
2 justice shall promulgate rules and regulations for the juvenile intake and  
3 assessment system and programs concerning juvenile offenders. If the  
4 commissioner contracts with the office of judicial administration to ad-  
5 minister the juvenile intake and assessment system and programs con-  
6 cerning juvenile offenders, the supreme court administrative orders shall  
7 be in force until such contract ends and the rules and regulations con-  
8 cerning juvenile intake and assessment system and programs concerning  
9 juvenile offenders have been adopted.

10 (b) No records, reports and information obtained as a part of the  
11 juvenile intake and assessment process may be admitted into evidence in  
12 any proceeding and may not be used in a child in need of care proceeding  
13 except for diagnostic and referral purposes and by the court in considering  
14 dispositional alternatives. However, if the records, reports or information  
15 are in regard to abuse or neglect, which is required to be reported under  
16 K.S.A. ~~38-1522~~ 2006 Supp. 38-2223, and amendments thereto, such re-  
17 cords, reports or information may then be used for any purpose in a child  
18 in need of care proceeding pursuant to the *revised* Kansas code for care  
19 of children.

20 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 2006  
21 Supp. 38-2330, and amendments thereto, a juvenile intake and assess-  
22 ment worker shall complete the intake and assessment process as re-  
23 quired by supreme court administrative order or district court rule prior  
24 to July 1, 1997, or except as provided above rules and regulations estab-  
25 lished by the commissioner of juvenile justice on and after July 1, 1997.

26 (d) Except as provided in subsection (g) and in addition to any other  
27 information required by the supreme court administrative order, the sec-  
28 retary, the commissioner or by the district court of such district, the ju-  
29 venile intake and assessment worker shall collect the following informa-  
30 tion:

31 (1) A standardized risk assessment tool, such as the problem oriented  
32 screening instrument for teens;

33 (2) criminal history, including indications of criminal gang involve-  
34 ment;

35 (3) abuse history;

36 (4) substance abuse history;

37 (5) history of prior community services used or treatments provided;

38 (6) educational history;

39 (7) medical history; and

40 (8) family history.

41 (e) After completion of the intake and assessment process for such  
42 child, the intake and assessment worker may:

43 (1) Release the child to the custody of the child's parent, other legal



- 1 guardian or another appropriate adult if the intake and assessment worker  
2 believes that it would be in the best interest of the child and it would not  
3 be harmful to the child to do so.
- 4 (2) Conditionally release the child to the child's parent, other legal  
5 guardian or another appropriate adult if the intake and assessment worker  
6 believes that if the conditions are met, it would be in the child's best  
7 interest to release the child to such child's parent, other legal guardian  
8 or another appropriate adult; and the intake and assessment worker has  
9 reason to believe that it might be harmful to the child to release the child  
10 to such child's parents, other legal guardian or another appropriate adult  
11 without imposing the conditions. The conditions may include, but not be  
12 limited to:
- 13 (A) Participation of the child in counseling;
  - 14 (B) participation of members of the child's family in counseling;
  - 15 (C) participation by the child, members of the child's family and other  
16 relevant persons in mediation;
  - 17 (D) provision of inpatient treatment for the child;
  - 18 (E) referral of the child and the child's family to the secretary of social  
19 and rehabilitation services for services and the agreement of the child and  
20 family to accept and participate in the services offered;
  - 21 (F) referral of the child and the child's family to available community  
22 resources or services and the agreement of the child and family to accept  
23 and participate in the services offered;
  - 24 (G) requiring the child and members of the child's family to enter  
25 into a behavioral contract which may provide for regular school attend-  
26 ance among other requirements; or
  - 27 (H) any special conditions necessary to protect the child from future  
28 abuse or neglect.
- 29 (3) Deliver the child to a shelter facility or a licensed attendant care  
30 center along with the law enforcement officer's written application. The  
31 shelter facility or licensed attendant care facility shall then have custody  
32 as if the child had been directly delivered to the facility by the law en-  
33 forcement officer pursuant to K.S.A. ~~38-1528~~ *2006 Supp.* 38-2232, and  
34 amendments thereto.
- 35 (4) Refer the child to the county or district attorney for appropriate  
36 proceedings to be filed or refer the child and family to the secretary of  
37 social and rehabilitation services for investigations in regard to the alle-  
38 gations.
- 39 (5) Make recommendations to the county or district attorney con-  
40 cerning immediate intervention programs which may be beneficial to the  
41 juvenile.
- 42 (f) The commissioner may adopt rules and regulations which allow  
43 local juvenile intake and assessment programs to create a risk assessment

1 tool, as long as such tool meets the mandatory reporting requirements  
2 established by the commissioner.

3 (g) Parents, guardians and juveniles may access the juvenile intake  
4 and assessment programs on a voluntary basis. The parent or guardian  
5 shall be responsible for the costs of any such program utilized.

6 Sec. 44. K.S.A. 2006 Supp. 75-7025 is hereby amended to read as  
7 follows: 75-7025. On and after July 1, 1997:

8 (a) The commissioner of juvenile justice may establish, maintain and  
9 improve throughout the state, within the limits of funds appropriated  
10 therefor and any grants or funds received from federal agencies and other  
11 sources, regional youth care, evaluation and rehabilitation facilities, not  
12 to exceed 10 in number, for the purpose of: (1) Providing local authorities  
13 with facilities for the detention and rehabilitation of juvenile offenders,  
14 including, but not limited to juvenile offenders who are 16 and 17 years  
15 of age; (2) providing local authorities with facilities for the temporary  
16 shelter and detention of juveniles pending any examination or study to  
17 be made of the juveniles or prior to the disposition of such juveniles  
18 pursuant to the *revised* Kansas code for care of children or the revised  
19 Kansas juvenile justice code; and (3) providing short-term treatment and  
20 rehabilitation service for juveniles.

21 (b) Each such facility shall be staffed by a superintendent and such  
22 other officers and employees considered necessary by the commissioner  
23 for the proper management and operation of the center. The commis-  
24 sioner shall appoint the superintendent of each regional facility and fix  
25 the superintendent's compensation with the approval of the governor.  
26 Each superintendent shall appoint all other officers and employees for  
27 such regional facility, subject to the approval of the commissioner.

28 (c) The commissioner may adopt rules and regulations relating to the  
29 operation and management of any regional youth care facility established  
30 pursuant to the provisions of K.S.A. 75-7025 through 75-7028, and  
31 amendments thereto.

32 Sec. 45. K.S.A. 2006 Supp. 75-7413 is hereby amended to read as  
33 follows: 75-7413. On and after July 1, 2006, except as otherwise provided  
34 by this act, all of the following powers, duties and functions of the division  
35 of health policy and finance within the department of administration and  
36 the director of health policy and finance are hereby transferred to and  
37 imposed upon the Kansas health policy authority established by K.S.A.  
38 2006 Supp. 75-7401, and amendments thereto:

39 (a) All of the powers, duties and functions under chapter 39 of the  
40 Kansas Statutes Annotated, and amendments thereto, that were trans-  
41 ferred on July 1, 2005, to the division of health planning and finance and  
42 the director of health planning and finance and that relate to develop-  
43 ment, implementation and administration of programs that provide med-

1 ical assistance, health insurance programs or waivers granted thereunder  
2 for persons who are needy or uninsured, or both, and that are financed  
3 by federal funds or state funds, or both, including the following:

4 (1) The Kansas program of medical assistance established in accord-  
5 ance with title XIX of the federal social security act, 42 U.S.C. § 1396 et  
6 seq., and amendments thereto; and

7 (2) any program of medical assistance for needy persons financed by  
8 state funds only;

9 (b) all of the powers, duties and functions that were transferred on  
10 July 1, 2005, to the division of health planning and finance and the di-  
11 rector of health planning and finance with respect to the health benefits  
12 program for children established under K.S.A. 38-2001 et seq., and  
13 amendments thereto, and developed and submitted in accordance with  
14 federal guidelines established under title XXI of the federal social security  
15 act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and  
16 amendments thereto;

17 (c) the working healthy portion of the ticket to work program under  
18 the federal work incentive improvement act and the medicaid infrastruc-  
19 ture grants received for the working healthy portion of the ticket to work  
20 program;

21 (d) the medicaid management information system (MMIS);

22 (e) the restrictive drug formulary, the drug utilization review pro-  
23 gram, including oversight of the medicaid drug utilization review board,  
24 and the electronic claims management system as provided in K.S.A. 39-  
25 7,116 through 39-7,121 and K.S.A. 2006 Supp. 39-7,121a through 39-  
26 7,121e, and amendments thereto; ~~and~~

27 (f) all of the powers, duties and functions of the *division of health*  
28 *and policy and finance* associated with designation as the single state  
29 agency under title XIX of the federal social security act, 42 U.S.C. § 1396  
30 et seq., and amendments thereto. On and after July 1, 2006, the desig-  
31 nation of the division of health and finance as the single state agency for  
32 medicaid purposes is hereby transferred to the Kansas health policy au-  
33 thority; *and*

34 (g) *hearings conducted pursuant to the transfer of powers, duties and*  
35 *functions conveyed through this section shall be conducted in accordance*  
36 *with the Kansas administrative procedure act utilizing a presiding officer*  
37 *from the office of administrative hearings.*

38 Sec. 46. K.S.A. 2006 Supp. 75-7414 is hereby amended to read as  
39 follows: 75-7414. (a) On and after July 1, 2006, the Kansas health policy  
40 authority shall be the successor in every way to the powers, duties and  
41 functions of the division of health policy and finance and the director of  
42 health policy and finance in which the same were vested prior to July 1,  
43 2006, and that are transferred pursuant to K.S.A. 2006 Supp. 75-7413,

1 and amendments thereto. Every act performed in the exercise of such  
2 transferred powers, duties and functions by or under the authority of the  
3 Kansas health policy authority shall be deemed to have the same force  
4 and effect as if performed by the division of health policy and finance  
5 and the director of health policy and finance in which such powers, duties  
6 and functions were vested prior to July 1, 2006.

7 (b) On and after July 1, 2006, whenever the division of health policy  
8 and finance within the department of administration or the director of  
9 health policy and finance, or words of like effect, are referred to or des-  
10 ignated by a statute, contract, memorandum of understanding, plan,  
11 grant, waiver or other document and such reference is in regard to any  
12 of the powers, duties or functions transferred to the Kansas health policy  
13 authority pursuant to K.S.A. 2006 Supp. 75-7413, and amendments  
14 thereto, such reference or designation shall be deemed to apply to the  
15 Kansas health policy authority. The provisions of this subsection shall not  
16 apply to references to or designations of the division of health policy and  
17 finance within the department of administration or the director of health  
18 policy and finance, or words of like effect, by the provisions of appropri-  
19 ation acts.

20 (c) All rules and regulations, orders and directives of the director of  
21 health policy and finance that relate to the functions transferred by K.S.A.  
22 2006 Supp. 75-7413, and amendments thereto, and that are in effect on  
23 July 1, 2006, shall continue to be effective and shall be deemed to be  
24 rules and regulations, orders and directives of the Kansas health policy  
25 authority until revised, amended, revoked or nullified pursuant to law.

26 (d) *Hearings conducted pursuant to the transfer of powers, duties and*  
27 *functions conveyed through this section shall be conducted in accordance*  
28 *with the Kansas administrative procedure act utilizing a presiding officer*  
29 *from the office of administrative hearings.*

30 Sec. 47. On and after July 1, 2008, K.S.A. 2006 Supp. 84-1-201, as  
31 amended by section 9 of 2007 Senate Bill No. 183, is hereby amended  
32 to read as follows: 84-1-201. (UCC 1-201) General definitions. (a) Unless  
33 the context otherwise requires, words or phrases defined in this section,  
34 or in the additional definitions contained in other articles of the uniform  
35 commercial code that apply to particular articles or parts thereof, have  
36 the meanings stated.

37 (b) Subject to definitions contained in other articles of the uniform  
38 commercial code that apply to particular articles or parts thereof:

39 (1) "Action", in the sense of a judicial proceeding, includes recoup-  
40 ment, counterclaim, set-off, suit in equity, and any other proceeding in  
41 which rights are determined.

42 (2) "Aggrieved party" means a party entitled to pursue a remedy.

43 (3) "Agreement", as distinguished from "contract", means the bar-

- 1 gain of the parties in fact, as found in their language or inferred from  
2 other circumstances, including course of performance, course of dealing,  
3 or usage of trade as provided in section 17, and amendments thereto.
- 4 (4) “Bank” means a person engaged in the business of banking and  
5 includes a savings bank, savings and loan association, credit union, and  
6 trust company.
- 7 (5) “Bearer” means *a person in control of a negotiable electronic doc-*  
8 *ument of title* or a person in possession of a negotiable instrument, *ne-*  
9 *gotiable tangible* document of title, or certificated security that is payable  
10 to bearer or indorsed in blank.
- 11 (6) “Bill of lading” means a document *of title* evidencing the receipt  
12 of goods for shipment issued by a person engaged in the business of  
13 *directly or indirectly* transporting or forwarding goods. *The term does not*  
14 *include a warehouse receipt.*
- 15 (7) “Branch” includes a separately incorporated foreign branch of a  
16 bank.
- 17 (8) “Burden of establishing” a fact means the burden of persuading  
18 the trier of fact that the existence of the fact is more probable than its  
19 nonexistence.
- 20 (9) “Buyer in ordinary course of business” means a person that buys  
21 goods in good faith, without knowledge that the sale violates the rights of  
22 another person in the goods, and in the ordinary course from a person,  
23 other than a pawnbroker, in the business of selling goods of that kind. A  
24 person buys goods in the ordinary course if the sale to the person com-  
25 ports with the usual or customary practices in the kind of business in  
26 which the seller is engaged or with the seller’s own usual or customary  
27 practices. A person that sells oil, gas, or other minerals at the wellhead  
28 or minehead is a person in the business of selling goods of that kind. A  
29 buyer in ordinary course of business may buy for cash, by exchange of  
30 other property, or on secured or unsecured credit, and may acquire goods  
31 or documents of title under a preexisting contract for sale. Only a buyer  
32 that takes possession of the goods or has a right to recover the goods from  
33 the seller under article 2 of chapter 84 of the Kansas Statutes Annotated,  
34 and amendments thereto, may be a buyer in ordinary course of business.  
35 “Buyer in ordinary course of business” does not include a person that  
36 acquires goods in a transfer in bulk or as security for or in total or partial  
37 satisfaction of a money debt.
- 38 (10) “Conspicuous”, with reference to a term, means so written, dis-  
39 played, or presented that a reasonable person against which it is to operate  
40 ought to have noticed it. Whether a term is “conspicuous” or not is a  
41 decision for the court. Conspicuous terms include the following:
- 42 (A) A heading in capitals equal to or greater in size than the sur-  
43 rounding text, or in contrasting type, font, or color to the surrounding

1 text of the same or lesser size; and

2 (B) language in the body of a record or display in larger type than  
3 the surrounding text, or in contrasting type, font, or color to the surround-  
4 ing text of the same size, or set off from surrounding text of the same  
5 size by symbols or other marks that call attention to the language.

6 (11) “Consumer” means an individual who enters into a transaction  
7 primarily for personal, family, or household purposes.

8 (12) “Contract”, as distinguished from “agreement”, means the total  
9 legal obligation that results from the parties’ agreement as determined  
10 by the uniform commercial code as supplemented by any other applicable  
11 laws.

12 (13) “Creditor” includes a general creditor, a secured creditor, a lien  
13 creditor, and any representative of creditors, including an assignee for  
14 the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and  
15 an executor or administrator of an insolvent debtor’s or assignor’s estate.

16 (14) “Defendant” includes a person in the position of defendant in a  
17 counterclaim, cross-claim, or third-party claim.

18 (15) “Delivery”, with respect to an *electronic document of title* means  
19 *voluntary transfer of control and with respect to an instrument, a tangible*  
20 *document of title, or chattel paper, means voluntary transfer of posses-*  
21 *sion.*

22 (16) “Document of title” ~~includes bill of lading, dock warrant, dock~~  
23 ~~receipt, warehouse receipt or order for the delivery of goods, and also~~  
24 ~~any other document which means a record (i) that in the regular course~~  
25 ~~of business or financing is treated as adequately evidencing that the per-~~  
26 ~~son in possession or control of it the record is entitled to receive, control,~~  
27 ~~hold, and dispose of the document record and the goods it the record~~  
28 ~~covers and (ii) that purports to be issued by or addressed to a bailee and~~  
29 ~~to cover goods in the bailee’s possession which are either identified or are~~  
30 ~~fungible portions of an identified mass. The term includes a bill of lading,~~  
31 ~~transport document, dock warrant, dock receipt, warehouse receipt and~~  
32 ~~order for delivery of goods. To be a document of title, a document must~~  
33 ~~purport to be issued by or addressed to a bailee and purport to cover~~  
34 ~~goods in the bailee’s possession which are either identified or are fungible~~  
35 ~~portions of an identified mass. An electronic document of title means a~~  
36 ~~document of title evidenced by a record consisting of information stored~~  
37 ~~in an electronic medium. A tangible document of title means a document~~  
38 ~~of title evidenced by a record consisting of information that is inscribed~~  
39 ~~on a tangible medium.~~

40 (17) “Fault” means a default, breach, or wrongful act or omission.

41 (18) “Fungible goods” means:

42 (A) Goods of which any unit, by nature or usage of trade, is the equiv-  
43 alent of any other like unit; or

- 1 (B) goods that by agreement are treated as equivalent.
- 2 (19) “Genuine” means free of forgery or counterfeiting.
- 3 (20) “Good faith,” except as otherwise provided in article 5 of chapter  
4 84 of the Kansas Statutes Annotated, and amendments thereto, means  
5 honesty in fact and the observance of reasonable commercial standards  
6 of fair dealing.
- 7 (21) “Holder” means:
- 8 (A) The person in possession of a negotiable instrument that is pay-  
9 able either to bearer or to an identified person that is the person in  
10 possession; or
- 11 (B) the person in possession of a *negotiable tangible* document of title  
12 if the goods are deliverable either to bearer or to the order of the person  
13 in possession; *or*
- 14 (C) *the person in control of a negotiable electronic document of title.*
- 15 (22) “Insolvency proceeding” includes an assignment for the benefit  
16 of creditors or other proceeding intended to liquidate or rehabilitate the  
17 estate of the person involved.
- 18 (23) “Insolvent” means:
- 19 (A) Having generally ceased to pay debts in the ordinary course of  
20 business other than as a result of bona fide dispute;
- 21 (B) being unable to pay debts as they become due; or
- 22 (C) being insolvent within the meaning of federal bankruptcy law.
- 23 (24) “Money” means a medium of exchange currently authorized or  
24 adopted by a domestic or foreign government. The term includes a mon-  
25 etary unit of account established by an intergovernmental organization or  
26 by agreement between two or more countries.
- 27 (25) “Organization” means a person other than an individual.
- 28 (26) “Party”, as distinguished from “third party”, means a person that  
29 has engaged in a transaction or made an agreement subject to the uniform  
30 commercial code.
- 31 (27) “Person” means an individual, corporation, business trust, estate,  
32 trust, partnership, limited liability company, association, joint venture,  
33 government, governmental subdivision, agency, or instrumentality, public  
34 corporation, or any other legal or commercial entity.
- 35 (28) “Present value” means the amount as of a date certain of one or  
36 more sums payable in the future, discounted to the date certain by use  
37 of either an interest rate specified by the parties if that rate is not man-  
38 ifestly unreasonable at the time the transaction is entered into or, if an  
39 interest rate is not so specified, a commercially reasonable rate that takes  
40 into account the facts and circumstances at the time the transaction is  
41 entered into.
- 42 (29) “Purchase” means taking by sale, lease, discount, negotiation,  
43 mortgage, pledge, lien, security interest, issue or reissue, gift, or any other

1 voluntary transaction creating an interest in property.

2 (30) "Purchaser" means a person that takes by purchase.

3 (31) "Record" means information that is inscribed on a tangible me-  
4 dium or that is stored in an electronic or other medium and is retrievable  
5 in perceivable form.

6 (32) "Remedy" means any remedial right to which an aggrieved party  
7 is entitled with or without resort to a tribunal.

8 (33) "Representative" means a person empowered to act for another,  
9 including an agent, an officer of a corporation or association, and a trustee,  
10 executor, or administrator of an estate.

11 (34) "Right" includes remedy.

12 (35) "Security interest" means an interest in personal property or  
13 fixtures which secures payment or performance of an obligation. "Security  
14 interest" includes any interest of a consignor and a buyer of accounts,  
15 chattel paper, a payment intangible, or a promissory note in a transaction  
16 that is subject to article 9 of chapter 84 of the Kansas Statutes Annotated,  
17 and amendments thereto. "Security interest" does not include the special  
18 property interest of a buyer of goods on identification of those goods to  
19 a contract for sale under K.S.A. 84-2-401 and amendments thereto, but  
20 a buyer may also acquire a "security interest" by complying with article  
21 9 of chapter 84 of the Kansas Statutes Annotated, and amendments  
22 thereto. Except as otherwise provided in K.S.A. 84-2-505, and amend-  
23 ments thereto, the right of a seller or lessor of goods under article 2 or  
24 2a of chapter 84 of the Kansas Statutes Annotated, and amendments  
25 thereto, to retain or acquire possession of the goods is not a "security  
26 interest", but a seller or lessor may also acquire a "security interest" by  
27 complying with article 9 of chapter 84 of the Kansas Statutes Annotated,  
28 and amendments thereto. The retention or reservation of title by a seller  
29 of goods notwithstanding shipment or delivery to the buyer under K.S.A.  
30 84-2-401, and amendments thereto, is limited in effect to a reservation  
31 of a "security interest." Whether a transaction in the form of a lease  
32 creates a "security interest" is determined pursuant to section 11, and  
33 amendments thereto.

34 (36) "Send" in connection with a writing, record, or notice means:

35 (A) To deposit in the mail or deliver for transmission by any other  
36 usual means of communication with postage or cost of transmission pro-  
37 vided for and properly addressed and, in the case of an instrument, to an  
38 address specified thereon or otherwise agreed, or if there be none to any  
39 address reasonable under the circumstances; or

40 (B) in any other way to cause to be received any record or notice  
41 within the time it would have arrived if properly sent.

42 (37) "Signed" includes using any symbol executed or adopted with  
43 present intention to adopt or accept a writing.



- 1 (38) "State" means a state of the United States, the District of Co-  
2 lumbia, Puerto Rico, the United States Virgin Islands, or any territory or  
3 insular possession subject to the jurisdiction of the United States.
- 4 (39) "Surety" includes a guarantor or other secondary obligor.
- 5 (40) "Term" means a portion of an agreement that relates to a par-  
6 ticular matter.
- 7 (41) "Unauthorized signature" means a signature made without ac-  
8 tual, implied, or apparent authority. The term includes a forgery.
- 9 (42) "Warehouse receipt" means a ~~receipt~~ *document of title* issued  
10 by a person engaged in the business of storing goods for hire.
- 11 (43) "Writing" includes printing, typewriting, or any other intentional  
12 reduction to tangible form. "Written" has a corresponding meaning.
- 13 Sec. 48. On and after July 1, 2008, K.S.A. 2006 Supp. 84-2-103, as  
14 amended by section 33 of 2007 Senate Bill No. 183, is hereby amended  
15 to read as follows: 84-2-103. (1) In this article unless the context otherwise  
16 requires:
- 17 (a) "Buyer" means a person who buys or contracts to buy goods.  
18 (b) Reserved.  
19 (c) "Receipt" of goods means taking physical possession of them.  
20 (d) "Seller" means a person who sells or contracts to sell goods.
- 21 (2) Other definitions applying to this article or to specified parts  
22 thereof, and the sections in which they appear are:
- 23 "Acceptance." K.S.A. 84-2-606, and amendments thereto.  
24 "Banker's credit." K.S.A. 84-2-325, and amendments thereto.  
25 "Between merchants." K.S.A. 84-2-104, and amendments thereto.  
26 "Cancellation." K.S.A. 84-2-106(4), and amendments thereto.  
27 "Commercial unit." K.S.A. 84-2-105, and amendments thereto.  
28 "Confirmed credit." K.S.A. 84-2-325, and amendments thereto.  
29 "Conforming to contract." K.S.A. 84-2-106, and amendments thereto.  
30 "Contract for sale." K.S.A. 84-2-106, and amendments thereto.  
31 "Cover." K.S.A. 84-2-712, and amendments thereto.  
32 "Entrusting." K.S.A. 84-2-403, and amendments thereto.  
33 "Financing agency." K.S.A. 84-2-104, and amendments thereto.  
34 "Future goods." K.S.A. 84-2-105, and amendments thereto.  
35 "Goods." K.S.A. 84-2-105, and amendments thereto.  
36 "Identification." K.S.A. 84-2-501, and amendments thereto.  
37 "Installment contract." K.S.A. 84-2-612, and amendments thereto.  
38 "Letter of credit." K.S.A. 84-2-325, and amendments thereto.  
39 "Lot." K.S.A. 84-2-105, and amendments thereto.  
40 "Merchant." K.S.A. 84-2-104, and amendments thereto.  
41 "Overseas." K.S.A. 84-2-323, and amendments thereto.  
42 "Person in position of seller." K.S.A. 84-2-707, and amendments  
43 thereto.

- 1 “Present sale.” K.S.A. 84-2-106, and amendments thereto.  
2 “Sale.” K.S.A. 84-2-106, and amendments thereto.  
3 “Sale on approval.” K.S.A. 84-2-326, and amendments thereto.  
4 “Sale or return.” K.S.A. 84-2-326, and amendments thereto.  
5 “Termination.” K.S.A. 84-2-106, and amendments thereto.  
6 (3) “Control” as provided in section 6 of 2007 Senate Bill No. 308,  
7 and amendments thereto, and the following definitions in other articles  
8 apply to this article:  
9 “Check.” K.S.A. 84-3-104, and amendments thereto.  
10 “Consignee.” K.S.A. 84-7-102, and amendments thereto.  
11 “Consignor.” K.S.A. 84-7-102, and amendments thereto.  
12 “Consumer goods.” K.S.A. 2006 Supp. 84-9-102, and amendments  
13 thereto.  
14 “Dishonor.” K.S.A. 84-3-502, and amendments thereto.  
15 “Draft.” K.S.A. 84-3-104, and amendments thereto.  
16 (4) In addition article 1 contains general definitions and principles of  
17 construction and interpretation applicable throughout this article.  
18 Sec. 49. On and after July 1, 2008, K.S.A. 2006 Supp. 84-2a-103, as  
19 amended by section 35 of 2007 Senate Bill No. 183, is hereby amended  
20 to read as follows: 84-2a-103. (1) In this article unless the context oth-  
21 erwise requires:  
22 (a) “Buyer in ordinary course of business” means a person who in  
23 good faith and without knowledge that the sale to such person is in vio-  
24 lation of the ownership rights or security interest or leasehold interest of  
25 a third party in the goods buys in ordinary course from a person in the  
26 business of selling goods of that kind but does not include a pawnbroker.  
27 “Buying” may be for cash or by exchange of other property or on secured  
28 or unsecured credit and includes ~~receiving~~ acquiring goods or documents  
29 of title under a preexisting contract for sale but does not include a transfer  
30 in bulk or as security for or in total or partial satisfaction of a money debt.  
31 (b) “Cancellation” occurs when either party puts an end to the lease  
32 contract for default by the other party.  
33 (c) “Commercial unit” means such a unit of goods as by commercial  
34 usage is a single whole for purposes of lease and division of which ma-  
35 terially impairs its character or value on the market or in use. A com-  
36 mercial unit may be a single article, as a machine, or a set of articles, as  
37 a suite of furniture or a line of machinery, or a quantity, as a gross or  
38 carload, or any other unit treated in use or in the relevant market as a  
39 single whole.  
40 (d) “Conforming” goods or performance under a lease contract  
41 means goods or performance that are in accordance with the obligations  
42 under the lease contract.  
43 (e) “Consumer lease” means a lease that a lessor regularly engaged

- 1 in the business of leasing or selling makes to a lessee who is an individual  
2 and who takes under the lease primarily for a personal, family, or house-  
3 hold purpose, if the total payments to be made under the lease contract,  
4 excluding payments for options to renew or buy, do not exceed \$25,000.
- 5 (f) “Fault” means wrongful act, omission, breach or default.
- 6 (g) “Finance lease” means a lease with respect to which:
- 7 (i) The lessor does not select, manufacture or supply the goods;
- 8 (ii) the lessor acquires the goods or the right to possession and use  
9 of the goods in connection with the lease; and
- 10 (iii) one of the following occurs:
- 11 (A) The lessee receives a copy of the contract by which the lessor  
12 acquired the goods or the right to possession and use of the goods before  
13 signing the lease contract;
- 14 (B) the lessee’s approval of the contract by which the lessor acquired  
15 the goods or the right to possession and use of the goods is a condition  
16 to effectiveness of the lease contract;
- 17 (C) the lessee, before signing the lease contract, receives an accurate  
18 and complete statement designating the promises and warranties, and any  
19 disclaimers of warranties, limitations or modifications of remedies, or liq-  
20 uidated damages, including those of a third party, such as the manufac-  
21 turer of the goods, provided to the lessor by the person supplying the  
22 goods in connection with or as part of the contract by which the lessor  
23 acquired the goods or the right to possession and use of the goods; or
- 24 (D) if the lease is not a consumer lease, the lessor, before the lessee  
25 signs the lease contract, informs the lessee in writing (a) of the identity  
26 of the person supplying the goods to the lessor, unless the lessee has  
27 selected that person and directed the lessor to acquire the goods or the  
28 right to possession and use of the goods from that person, (b) that the  
29 lessee is entitled under this article to the promises and warranties, in-  
30 cluding those of any third party, provided to the lessor by the person  
31 supplying the goods in connection with or as part of the contract by which  
32 the lessor acquired the goods or the right to possession and use of the  
33 goods, and (c) that the lessee may communicate with the person supplying  
34 the goods to the lessor and receive an accurate and complete statement  
35 of those promises and warranties, including any disclaimers and limita-  
36 tions of them or of remedies.
- 37 (h) “Goods” means all things that are movable at the time of identi-  
38 fication to the lease contract, or are fixtures (K.S.A. 84-2a-309, and  
39 amendments thereto), but the term does not include money, documents,  
40 instruments, accounts, chattel paper, general intangibles, or minerals or  
41 the like, including oil and gas, before extraction. The term also includes  
42 the unborn young of animals.
- 43 (i) “Installment lease contract” means a lease contract that authorizes

1 or requires the delivery of goods in separate lots to be separately accepted,  
2 even though the lease contract contains a clause “each delivery is a sep-  
3 arate lease” or its equivalent.

4 (j) “Lease” means a transfer of the right to possession and use of  
5 goods for a term in return for consideration, but a sale, including a sale  
6 on approval or a sale or return, or retention or creation of a security  
7 interest is not a lease. Unless the context clearly indicates otherwise, the  
8 term includes a sublease.

9 (k) “Lease agreement” means the bargain, with respect to the lease,  
10 of the lessor and the lessee in fact as found in their language or by im-  
11 plication from other circumstances including course of dealing or usage  
12 of trade or course of performance as provided in this article. Unless the  
13 context clearly indicates otherwise, the term includes a sublease agree-  
14 ment.

15 (l) “Lease contract” means the total legal obligation that results from  
16 the lease agreement as affected by this article and any other applicable  
17 rules of law. Unless the context clearly indicates otherwise, the term in-  
18 cludes a sublease contract.

19 (m) “Leasehold interest” means the interest of the lessor or the lessee  
20 under a lease contract.

21 (n) “Lessee” means a person who acquires the right to possession  
22 and use of goods under a lease. Unless the context clearly indicates oth-  
23 erwise, the term includes a sublessee.

24 (o) “Lessee in ordinary course of business” means a person who in  
25 good faith and without knowledge that the lease is in violation of the  
26 ownership rights or security interest or leasehold interest of a third party  
27 in the goods leases in ordinary course from a person in the business of  
28 selling or leasing goods of that kind but does not include a pawnbroker.  
29 “Leasing” may be for cash or by exchange of other property or on secured  
30 or unsecured credit and includes ~~receiving~~ *acquiring* goods or documents  
31 of title under a preexisting lease contract but does not include a transfer  
32 in bulk or as security for or in total or partial satisfaction of a money debt.

33 (p) “Lessor” means a person who transfers the right to possession  
34 and use of goods under a lease. Unless the context clearly indicates oth-  
35 erwise, the term includes a sublessor.

36 (q) “Lessor’s residual interest” means the lessor’s interest in the  
37 goods after expiration, termination or cancellation of the lease contract.

38 (r) “Lien” means a charge against or interest in goods to secure pay-  
39 ment of a debt or performance of an obligation, but the term does not  
40 include a security interest.

41 (s) “Lot” means a parcel or a single article that is the subject matter  
42 of a separate lease or delivery, whether or not it is sufficient to perform  
43 the lease contract.

- 1 (t) “Merchant lessee” means a lessee that is a merchant with respect  
2 to goods of the kind subject to the lease.
- 3 (u) “Present value” means the amount as of a date certain of one or  
4 more sums payable in the future, discounted to the date certain. The  
5 discount is determined by the interest rate specified by the parties if the  
6 rate was not manifestly unreasonable at the time the transaction was en-  
7 tered into; otherwise, the discount is determined by a commercially rea-  
8 sonable rate that takes into account the facts and circumstances of each  
9 case at the time the transaction was entered into.
- 10 (v) “Purchase” includes taking by sale, lease, mortgage, security in-  
11 terest, pledge, gift, or any other voluntary transaction creating an interest  
12 in goods.
- 13 (w) “Sublease” means a lease of goods the right to possession and  
14 use of which was acquired by the lessor as a lessee under an existing lease.
- 15 (x) “Supplier” means a person from whom a lessor buys or leases  
16 goods to be leased under a finance lease.
- 17 (y) “Supply contract” means a contract under which a lessor buys or  
18 leases goods to be leased.
- 19 (z) “Termination” occurs when either party pursuant to a power cre-  
20 ated by agreement or law puts an end to the lease contract otherwise than  
21 for default.
- 22 (2) Other definitions applying to this article and the sections in which  
23 they appear are:
- 24 “Accessions,” K.S.A. 84-2a-310(1), and amendments thereto;  
25 “Construction mortgage,” K.S.A. 84-2a-309(1)(d), and amendments  
26 thereto;  
27 “Encumbrance,” K.S.A. 84-2a-309(1)(e), and amendments thereto;  
28 “Fixtures,” K.S.A. 84-2a-309(1)(a), and amendments thereto;  
29 “Fixture filing,” K.S.A. 84-2a-309(1)(b), and amendments thereto; and  
30 “Purchase money lease,” K.S.A. 84-2a-309(1)(c), and amendments  
31 thereto.
- 32 (3) The following definitions in other articles apply to this article:
- 33 “Account,” K.S.A. 2006 Supp. 84-9-102, and amendments thereto;  
34 “Between merchants,” K.S.A. 84-2-104(3), and amendments thereto;  
35 “Buyer,” K.S.A. 84-2-103(1)(a), and amendments thereto;  
36 “Chattel paper,” K.S.A. 2006 Supp. 84-9-102(a)(11), and amendments  
37 thereto;  
38 “Consumer goods,” K.S.A. 2006 Supp. 84-9-102(a)(23), and amend-  
39 ments thereto;  
40 “Document,” K.S.A. 2006 Supp. 84-9-102(a)(30), and amendments  
41 thereto;  
42 “Entrusting,” K.S.A. 84-2-403(3), and amendments thereto;  
43 “General intangible,” K.S.A. 2006 Supp. 84-9-102(a)(42), and amend-

1 ments thereto;  
2 “Instrument,” K.S.A. 2006 Supp. 84-9-102(a)(47), and amendments  
3 thereto;  
4 “Merchant,” K.S.A. 84-2-104(1), and amendments thereto;  
5 “Mortgage,” K.S.A. 2006 Supp. 84-9-102(a)(55), and amendments  
6 thereto;  
7 “Pursuant to commitment,” K.S.A. 2006 Supp. 84-9-102(a)(68), and  
8 amendments thereto;  
9 “Receipt,” K.S.A. 84-2-103(1)(c), and amendments thereto;  
10 “Sale,” K.S.A. 84-2-106(1), and amendments thereto;  
11 “Sale on approval,” K.S.A. 84-2-326, and amendments thereto;  
12 “Sale or return,” K.S.A. 84-2-326, and amendments thereto; and  
13 “Seller,” K.S.A. 84-2-103(1)(d), and amendments thereto.  
14 (4) In addition, article 1 of chapter 84 of the Kansas Statutes Anno-  
15 tated, and amendments thereto, contains general definitions and princi-  
16 ples of construction and interpretation applicable throughout this article.  
17 Sec. 50. On and after July 1, 2008, K.S.A. 84-4-104, as amended by  
18 section 42 of 2007 Senate Bill No. 183, is hereby amended to read as  
19 follows: 84-4-104. (a) In this article, unless the context otherwise requires:  
20 (1) “Account” means any deposit or credit account with a bank, in-  
21 cluding a demand, time, savings, passbook, share draft, or like account,  
22 other than an account evidenced by a certificate of deposit;  
23 (2) “Afternoon” means the period of a day between noon and mid-  
24 night;  
25 (3) “Banking day” means the part of a day on which a bank is open  
26 to the public for carrying on substantially all of its banking functions;  
27 (4) “Clearing house” means an association of banks or other payors  
28 regularly clearing items;  
29 (5) “Customer” means a person having an account with a bank or for  
30 whom a bank has agreed to collect items, including a bank that maintains  
31 an account at another bank;  
32 (6) “Documentary draft” means a draft to be presented for accep-  
33 tance or payment if specified documents, certificated securities K.S.A.  
34 84-8-102, and amendments thereto, or instructions for uncertificated se-  
35 curities (K.S.A. 84-8-308 and amendments thereto), or other certificates,  
36 statements, or the like are to be received by the drawee or other payor  
37 before acceptance or payment of the draft;  
38 (7) “Draft” means a draft as defined in K.S.A. 84-3-104 and amend-  
39 ments thereto, or an item, other than an instrument, that is an order.  
40 (8) “Drawee” means a person ordered in a draft to make payment;  
41 (9) “Item” means an instrument or a promise in order to pay money  
42 handled by a bank for collection or payment. The term does not include  
43 a payment order governed by article 4a, and amendments thereto, or a

- 1 credit or debit card slip;
- 2 (10) “Midnight deadline” with respect to a bank is midnight on its
- 3 next banking day following the banking day on which it receives the rel-
- 4 evant item or notice or from which the time for taking action commences
- 5 to run, whichever is later;
- 6 (11) “Settle” means to pay in cash, by clearing-house settlement, in
- 7 a charge or credit or by remittance, or otherwise as agreed. A settlement
- 8 may be either provisional or final;
- 9 (12) “Suspends payments” with respect to a bank means that it has
- 10 been closed by order of the supervisory authorities, that a public officer
- 11 has been appointed to take it over or that it ceases or refuses to make
- 12 payments in the ordinary course of business.
- 13 (b) Other definitions applying to this article and the sections in which
- 14 they appear are:
- 15 “Agreement for
- 16 electronic presentment.” 84-4-110, and amendments thereto.
- 17 “Bank.” 84-4-105, and amendments thereto.
- 18 “Collecting bank.” 84-4-105, and amendments thereto.
- 19 “Depository bank.” 84-4-105, and amendments thereto.
- 20 “Intermediary bank.” 84-4-105, and amendments thereto.
- 21 “Payor bank.” 84-4-105, and amendments thereto.
- 22 “Presenting bank.” 84-4-105, and amendments thereto.
- 23 “Presentment notice.” 84-4-110, and amendments thereto.
- 24 (c) *“Control” as provided in section 6 of 2007 Senate Bill No. 308,*
- 25 *and amendments thereto, and the following definitions in other articles*
- 26 *apply to this article:*
- 27 “Acceptance.” 84-3-410, and amendments thereto.
- 28 “Alteration.” 84-3-407, and amendments thereto.
- 29 “Cashier’s check.” 84-3-104, and amendments thereto.
- 30 “Certificate of deposit.” 84-3-104, and amendments thereto.
- 31 “Certified check.” 84-3-409, and amendments thereto.
- 32 “Check.” 84-3-104, and amendments thereto.
- 33 “Draft.” 84-3-104, and amendments thereto.
- 34 “Holder in due course.” 84-3-302, and amendments thereto.
- 35 “Instrument.” 84-3-104, and amendments thereto.
- 36 “Notice of dishonor.” 84-3-503, and amendments thereto.
- 37 “Order.” 84-3-103, and amendments thereto.
- 38 “Ordinary care.” 84-3-103, and amendments thereto.
- 39 “Person entitled to en-
- 40 force.” 84-3-301, and amendments thereto.
- 41 “Presentment.” 84-3-504, and amendments thereto.
- 42 “Promise.” 84-3-103, and amendments thereto.
- 43 “Prove.” 84-3-103, and amendments thereto.

- 1 “Teller’s check.” 84-3-104, and amendments thereto.  
2 “Unauthorized signature.” 84-3-403, and amendments thereto.  
3 (d) In addition, article 1 of chapter 84 of the Kansas Statutes Anno-  
4 tated, and amendments thereto, contains general definitions and princi-  
5 ples of construction and interpretation applicable throughout this article.  
6 Sec. 51. On and after July 1, 2008, K.S.A. 2006 Supp. 84-9-102, as  
7 amended by section 48 of 2007 Senate Bill No. 183, is hereby amended  
8 to read as follows: 84-9-102. (a) **Article 9 definitions.** In this article:  
9 (1) “Accession” means goods that are physically united with other  
10 goods in such a manner that the identity of the original goods is not lost.  
11 (2) “Account,” except as used in “account for,” means a right to pay-  
12 ment of a monetary obligation, whether or not earned by performance,  
13 (A) for property that has been or is to be sold, leased, licensed, assigned,  
14 or otherwise disposed of, (B) for services rendered or to be rendered, (C)  
15 for a policy of insurance issued or to be issued, (D) for a secondary ob-  
16 ligation incurred or to be incurred, (E) for energy provided or to be  
17 provided, (F) for the use or hire of a vessel under a charter or other  
18 contract, (G) arising out of the use of a credit or charge card or infor-  
19 mation contained on or for use with the card, or (H) as winnings in a  
20 lottery or other game of chance operated or sponsored by a state, gov-  
21 ernmental unit of a state, or person licensed or authorized to operate the  
22 game by a state or governmental unit of a state. The term includes health-  
23 care-insurance receivables. The term does not include: (A) rights to pay-  
24 ment evidenced by chattel paper or an instrument, (B) commercial tort  
25 claims, (C) deposit accounts, (D) investment property, (E) letter-of-credit  
26 rights or letters of credit, or (F) rights to payment for money or funds  
27 advanced or sold, other than rights arising out of the use of a credit or  
28 charge card or information contained on or for use with the card.  
29 (3) “Account debtor” means a person obligated on an account, chattel  
30 paper, or general intangible. The term does not include persons obligated  
31 to pay a negotiable instrument, even if the instrument constitutes part of  
32 chattel paper.  
33 (4) “Accounting,” except as used in “accounting for,” means a record:  
34 (A) Authenticated by a secured party;  
35 (B) indicating the aggregate unpaid secured obligations as of a date  
36 not more than 35 days earlier or 35 days later than the date of the record;  
37 and  
38 (C) identifying the components of the obligations in reasonable de-  
39 tail.  
40 (5) “Agricultural lien” means an interest, other than a security inter-  
41 est, in farm products: (A) Which secures payment or performance of an  
42 obligation for:  
43 (i) Goods or services furnished in connection with a debtor’s farming



1 operation; or  
2 (ii) rent on real property leased by a debtor in connection with its  
3 farming operation;  
4 (B) which is created by statute in favor of a person that:  
5 (i) In the ordinary course of its business furnished goods or services  
6 to a debtor in connection with a debtor's farming operation; or  
7 (ii) leased real property to a debtor in connection with the debtor's  
8 farming operation; and  
9 (C) whose effectiveness does not depend on the person's possession  
10 of the personal property. Agricultural lien shall not include statutory liens.  
11 (6) "As-extracted collateral" means: (A) Oil, gas, or other minerals  
12 that are subject to a security interest that:  
13 (i) Is created by a debtor having an interest in the minerals before  
14 extraction; and  
15 (ii) attaches to the minerals as extracted; or  
16 (B) accounts arising out of the sale at the wellhead or minehead of  
17 oil, gas, or other minerals in which the debtor had an interest before  
18 extraction.  
19 (7) "Authenticate" means:  
20 (A) To sign; or  
21 (B) to execute or otherwise adopt a symbol, or encrypt or similarly  
22 process a record in whole or in part, with the present intent of the au-  
23 thenticating person to identify the person and adopt or accept a record.  
24 (8) "Bank" means an organization that is engaged in the business of  
25 banking. The term includes savings banks, savings and loan associations,  
26 credit unions, and trust companies.  
27 (9) "Cash proceeds" means proceeds that are money, checks, deposit  
28 accounts, or the like.  
29 (10) "Certificate of title" means a certificate of title with respect to  
30 which a statute provides for the security interest in question to be indi-  
31 cated on the certificate as a condition or result of the security interest's  
32 obtaining priority over the rights of a lien creditor with respect to the  
33 collateral.  
34 (11) "Chattel paper" means a record or records that evidence both a  
35 monetary obligation and a security interest in specific goods, a security  
36 interest in specific goods and software used in the goods, a security in-  
37 terest in specific goods and license of software used in the goods, a lease  
38 of specific goods, or a lease of specific goods and license of software used  
39 in the goods. In this subsection, "monetary obligation" means a monetary  
40 obligation secured by the goods or owed under a lease of the goods and  
41 includes a monetary obligation with respect to software used in the goods.  
42 The term does not include (i) charters or other contracts involving the  
43 use or hire of a vessel or (ii) records that evidence a right to payment

- 1 arising out of the use of a credit or charge card or information contained  
2 on or for use with the card. If a transaction is evidenced by records that  
3 include an instrument or series of instruments, the group of records taken  
4 together constitutes chattel paper.
- 5 (12) “Collateral” means the property subject to a security interest or  
6 agricultural lien. The term includes:
- 7 (A) Proceeds to which a security interest attaches;  
8 (B) accounts, chattel paper, payment intangibles, and promissory  
9 notes that have been sold; and  
10 (C) goods that are the subject of a consignment.
- 11 (13) “Commercial tort claim” means a claim arising in tort with re-  
12 spect to which:
- 13 (A) The claimant is an organization; or  
14 (B) the claimant is an individual and the claim:  
15 (i) arose in the course of the claimant’s business or profession; and  
16 (ii) does not include damages arising out of personal injury to or the  
17 death of an individual.
- 18 (14) “Commodity account” means an account maintained by a com-  
19modity intermediary in which a commodity contract is carried for a com-  
20modity customer.
- 21 (15) “Commodity contract” means a commodity futures contract, an  
22 option on a commodity futures contract, a commodity option, or another  
23 contract if the contract or option is:
- 24 (A) Traded on or subject to the rules of a board of trade that has  
25 been designated as a contract market for such a contract pursuant to  
26 federal commodities laws; or  
27 (B) traded on a foreign commodity board of trade, exchange, or mar-  
28ket, and is carried on the books of a commodity intermediary for a com-  
29modity customer.
- 30 (16) “Commodity customer” means a person for which a commodity  
31 intermediary carries a commodity contract on its books.
- 32 (17) “Commodity intermediary” means a person that:
- 33 (A) Is registered as a futures commission merchant under federal  
34 commodities law; or  
35 (B) in the ordinary course of its business provides clearance or set-  
36tlement services for a board of trade that has been designated as a contract  
37market pursuant to federal commodities law.
- 38 (18) “Communicate” means:
- 39 (A) To send a written or other tangible record;  
40 (B) to transmit a record by any means agreed upon by the persons  
41 sending and receiving the record; or  
42 (C) in the case of transmission of a record to or by a filing office, to  
43 transmit a record by any means prescribed by filing-office rule.

- 1 (19) "Consignee" means a merchant to which goods are delivered in  
2 a consignment.
- 3 (20) "Consignment" means a transaction, regardless of its form, in  
4 which a person delivers goods to a merchant for the purpose of sale and:  
5 (A) The merchant:  
6 (i) Deals in goods of that kind under a name other than the name of  
7 the person making delivery;  
8 (ii) is not an auctioneer; and  
9 (iii) is not generally known by its creditors to be substantially engaged  
10 in selling the goods of others;  
11 (B) with respect to each delivery, the aggregate value of the goods is  
12 \$1,000 or more at the time of delivery;  
13 (C) the goods are not consumer goods immediately before delivery;  
14 and  
15 (D) the transaction does not create a security interest that secures an  
16 obligation.
- 17 (21) "Consignor" means a person that delivers goods to a consignee  
18 in a consignment.
- 19 (22) "Consumer debtor" means a debtor in a consumer transaction.
- 20 (23) "Consumer goods" means goods that are used or bought for use  
21 primarily for personal, family, or household purposes.
- 22 (24) "Consumer-goods transaction" means a consumer transaction in  
23 which:  
24 (A) An individual incurs an obligation primarily for personal, family,  
25 or household purposes; and  
26 (B) a security interest in consumer goods secures the obligation.
- 27 (25) "Consumer obligor" means an obligor who is an individual and  
28 who incurred the obligation as part of a transaction entered into primarily  
29 for personal, family, or household purposes.
- 30 (26) "Consumer transaction" means a transaction in which (i) an in-  
31 dividual incurs an obligation primarily for personal, family, or household  
32 purposes, (ii) a security interest secures the obligation, and (iii) the col-  
33 lateral is held or acquired primarily for personal, family, or household  
34 purposes. The term includes consumer-goods transactions.
- 35 (27) "Continuation statement" means an amendment of a financing  
36 statement which:  
37 (A) Identifies, by its file number, the initial financing statement to  
38 which it relates; and  
39 (B) indicates that it is a continuation statement for, or that it is filed  
40 to continue the effectiveness of, the identified financing statement.
- 41 (28) "Debtor" means:  
42 (A) A person having an interest, other than a security interest or other  
43 lien, in the collateral, whether or not the person is an obligor;

- 1 (B) a seller of accounts, chattel paper, payment intangibles, or prom-  
2 issory notes; or
- 3 (C) a consignee.
- 4 (29) “Deposit account” means a demand, time, savings, passbook, or  
5 similar account maintained with a bank. The term does not include in-  
6 vestment property or accounts evidenced by an instrument.
- 7 (30) “Document” means a document of title or a receipt of the type  
8 described in subsection ~~(2)~~ (b) of K.S.A. 84-7-201 and amendments  
9 thereto.
- 10 (31) “Electronic chattel paper” means chattel paper evidenced by a  
11 record or records consisting of information stored in an electronic me-  
12 dium.
- 13 (32) “Encumbrance” means a right, other than an ownership interest,  
14 in real property. The term includes mortgages and other liens on real  
15 property.
- 16 (33) “Equipment” means goods other than inventory, farm products,  
17 or consumer goods.
- 18 (34) “Farm products” means goods, other than standing timber, with  
19 respect to which the debtor is engaged in a farming operation and which  
20 are: (A) Crops grown, growing, or to be grown, including:  
21 (i) Crops produced on trees, vines, and bushes; and  
22 (ii) aquatic goods produced in aquacultural operations;  
23 (B) livestock, born or unborn, including aquatic goods produced in  
24 aquacultural operations;  
25 (C) supplies used or produced in a farming operation; or  
26 (D) products of crops or livestock in their unmanufactured states.
- 27 (35) “Farming operation” means raising, cultivating, propagating, fat-  
28 tening, grazing, or any other farming, livestock, or aquacultural operation.
- 29 (36) “File number” means the number assigned to an initial financing  
30 statement pursuant to subsection (a) of K.S.A. 2006 Supp. 84-9-519 and  
31 amendments thereto.
- 32 (37) “Filing office” means an office designated in K.S.A. 2006 Supp.  
33 84-9-501 and amendments thereto as the place to file a financing state-  
34 ment.
- 35 (38) “Filing-office rule” means a rule adopted pursuant to K.S.A.  
36 2006 Supp. 84-9-526 and amendments thereto.
- 37 (39) “Financing statement” means a record or records composed of  
38 an initial financing statement and any filed record relating to the initial  
39 financing statement.
- 40 (40) “Fixture filing” means the filing of a financing statement cover-  
41 ing goods that are or are to become fixtures and satisfying subsections  
42 (a) and (b) of K.S.A. 2006 Supp. 84-9-502 and amendments thereto. The  
43 term includes the filing of a financing statement covering goods of a

1 transmitting utility which are or are to become fixtures.

2 (41) “Fixtures” means goods that have become so related to partic-  
3 ular real property that an interest in them arises under real property law.

4 (42) “General intangible” means any personal property, including  
5 things in action, other than accounts, chattel paper, commercial tort  
6 claims, deposit accounts, documents, goods, instruments, investment  
7 property, letter-of-credit rights, letters of credit, money, and oil, gas, or  
8 other minerals before extraction. The term includes payment intangibles  
9 and software.

10 (43) Reserved.

11 (44) “Goods” means all things that are movable when a security in-  
12 terest attaches. The term includes (A) fixtures, (B) standing timber that  
13 is to be cut and removed under a conveyance or contract for sale, (C) the  
14 unborn young of animals, (D) crops grown, growing, or to be grown, even  
15 if the crops are produced on trees, vines, or bushes, and (E) manufactured  
16 homes. The term also includes a computer program embedded in goods  
17 and any supporting information provided in connection with a transaction  
18 relating to the program if (A) the program is associated with the goods in  
19 such a manner that it customarily is considered part of the goods, or (B)  
20 by becoming the owner of the goods, a person acquires a right to use the  
21 program in connection with the goods. The term does not include a com-  
22 puter program embedded in goods that consist solely of the medium in  
23 which the program is embedded. The term also does not include ac-  
24 counts, chattel paper, commercial tort claims, deposit accounts, docu-  
25 ments, general intangibles, instruments, investment property, letter-of-  
26 credit rights, letters of credit, money, or oil, gas, or other minerals before  
27 extraction.

28 (45) “Governmental unit” means a subdivision, agency, department,  
29 county, parish, municipality, or other unit of the government of the  
30 United States, a state, or a foreign country. The term includes an organ-  
31 ization having a separate corporate existence if the organization is eligible  
32 to issue debt on which interest is exempt from income taxation under the  
33 laws of the United States.

34 (46) “Health-care-insurance receivable” means an interest in or claim  
35 under a policy of insurance which is a right to payment of a monetary  
36 obligation for health-care goods or services provided.

37 (47) “Instrument” means a negotiable instrument, a writing that  
38 would otherwise qualify as a certificate of deposit (defined in subsection  
39 (j) of K.S.A. 84-3-104, and amendments thereto) but for the fact that the  
40 writing contains a limitation on transfer, or any other writing that evi-  
41 dences a right to the payment of a monetary obligation, is not itself a  
42 security agreement or lease, and is of a type that in ordinary course of  
43 business is transferred by delivery with any necessary indorsement or

- 1 assignment. The term does not include (i) investment property, (ii) letters  
2 of credit, or (iii) writings that evidence a right to payment arising out of  
3 the use of a credit or charge card or information contained on or for use  
4 with the card.
- 5 (48) “Inventory” means goods, other than farm products, which:  
6 (A) Are leased by a person as lessor;  
7 (B) are held by a person for sale or lease or to be furnished under a  
8 contract of service;  
9 (C) are furnished by a person under a contract of service; or  
10 (D) consist of raw materials, work in process, or materials used or  
11 consumed in a business.
- 12 (49) “Investment property” means a security, whether certificated or  
13 uncertificated, security entitlement, securities account, commodity con-  
14 tract, or commodity account.
- 15 (50) “Jurisdiction of organization,” with respect to a registered or-  
16 ganization, means the jurisdiction under whose law the organization is  
17 organized.
- 18 (51) “Letter-of-credit right” means a right to payment or perform-  
19 ance under a letter of credit, whether or not the beneficiary has de-  
20 manded or is at the time entitled to demand payment or performance.  
21 The term does not include the right of a beneficiary to demand payment  
22 or performance under a letter of credit.
- 23 (52) “Lien creditor” means:  
24 (A) A creditor that has acquired a lien on the property involved by  
25 attachment, levy, or the like;  
26 (B) an assignee for benefit of creditors from the time of assignment;  
27 (C) a trustee in bankruptcy from the date of the filing of the petition;  
28 or  
29 (D) a receiver in equity from the time of appointment.
- 30 (53) “Manufactured home” means a structure, transportable in one  
31 or more sections, which, in the traveling mode, is eight body feet or more  
32 in width or 40 body feet or more in length, or, when erected on site, is  
33 320 or more square feet, and which is built on a permanent chassis and  
34 designed to be used as a dwelling with or without a permanent foundation  
35 when connected to the required utilities, and includes the plumbing,  
36 heating, air conditioning, and electrical systems contained therein. The  
37 term includes any structure that meets all of the requirements of this  
38 paragraph except the size requirements and with respect to which the  
39 manufacturer voluntarily files a certification required by the United States  
40 secretary of housing and urban development and complies with the stan-  
41 dards established under Title 42 of the United States code.
- 42 (54) “Manufactured-home transaction” means a secured transaction:  
43 (A) That creates a purchase-money security interest in a manufac-

- 1 tured home, other than a manufactured home held as inventory; or  
2 (B) in which a manufactured home, other than a manufactured home  
3 held as inventory, is the primary collateral.
- 4 (55) “Mortgage” means a consensual interest in real property, in-  
5 cluding fixtures, which secures payment or performance of an obligation.
- 6 (56) “New debtor” means a person that becomes bound as a debtor  
7 under subsection (d) of K.S.A. 2006 Supp. 84-9-203 and amendments  
8 thereto by a security agreement previously entered into by another per-  
9 son.
- 10 (57) “New value” means (A) money, (B) money’s worth in property,  
11 services, or new credit, or (C) release by a transferee of an interest in  
12 property previously transferred to the transferee. The term does not in-  
13 clude an obligation substituted for another obligation.
- 14 (58) “Noncash proceeds” means proceeds other than cash proceeds.
- 15 (59) “Obligor” means a person that, with respect to an obligation  
16 secured by a security interest in or an agricultural lien on the collateral,  
17 (A) owes payment or other performance of the obligation, (B) has pro-  
18 vided property other than the collateral to secure payment or other per-  
19 formance of the obligation, or (C) is otherwise accountable in whole or  
20 in part for payment or other performance of the obligation. The term  
21 does not include issuers or nominated persons under a letter of credit.
- 22 (60) “Original debtor” except as used in K.S.A. 2006 Supp. 84-9-  
23 310(c), and amendments thereto means a person that, as debtor, entered  
24 into a security agreement to which a new debtor has become bound under  
25 subsection (d) of K.S.A. 2006 Supp. 84-9-203 and amendments thereto.
- 26 (61) “Payment intangible” means a general intangible under which  
27 the account debtor’s principal obligation is a monetary obligation.
- 28 (62) “Person related to,” with respect to an individual, means:  
29 (A) The spouse of the individual;  
30 (B) a brother, brother-in-law, sister, or sister-in-law of the individual;  
31 (C) an ancestor or lineal descendant of the individual or the individ-  
32 ual’s spouse; or  
33 (D) any other relative, by blood or marriage, of the individual or the  
34 individual’s spouse who shares the same home with the individual.
- 35 (63) “Person related to,” with respect to an organization, means:  
36 (A) A person directly or indirectly controlling, controlled by, or under  
37 common control with the organization;  
38 (B) an officer or director of, or a person performing similar functions  
39 with respect to, the organization;  
40 (C) an officer or director of, or a person performing similar functions  
41 with respect to, a person described in subparagraph (A);  
42 (D) the spouse of an individual described in subparagraph (A), (B),  
43 or (C); or

- 1 (E) an individual who is related by blood or marriage to an individual  
2 described in subparagraph (A), (B), (C), or (D) and shares the same home  
3 with the individual.
- 4 (64) “Proceeds” except as used in K.S.A. 2006 Supp. 84-9-609(b), and  
5 amendments thereto means the following property:
- 6 (A) Whatever is acquired upon the sale, lease, license, exchange, or  
7 other disposition of collateral;
- 8 (B) whatever is collected on, or distributed on account of, collateral;
- 9 (C) rights arising out of collateral;
- 10 (D) to the extent of the value of collateral, claims arising out of the  
11 loss, nonconformity, or interference with the use of, defects or infringe-  
12 ment of rights in, or damage to, the collateral; or
- 13 (E) to the extent of the value of collateral and to the extent payable  
14 to the debtor or the secured party, insurance payable by reason of the  
15 loss or nonconformity of, defects or infringement of rights in, or damage  
16 to, the collateral.
- 17 (65) “Promissory note” means an instrument that evidences a prom-  
18 ise to pay a monetary obligation, does not evidence an order to pay, and  
19 does not contain an acknowledgment by a bank that the bank has received  
20 for deposit a sum of money or funds.
- 21 (66) “Proposal” means a record authenticated by a secured party  
22 which includes the terms on which the secured party is willing to accept  
23 collateral in full or partial satisfaction of the obligation it secures pursuant  
24 to K.S.A. 2006 Supp. 84-9-620, 84-9-621 and 84-9-622 and amendments  
25 thereto.
- 26 (67) “Pursuant to commitment,” with respect to an advance made or  
27 other value given by a secured party, means pursuant to the secured  
28 party’s obligation, whether or not a subsequent event of default or other  
29 event not within the secured party’s control has relieved or may relieve  
30 the secured party from its obligation.
- 31 (68) “Record,” except as used in “for record,” “of record,” “record  
32 or legal title,” and “record owner,” means information that is inscribed  
33 on a tangible medium or which is stored in an electronic or other medium  
34 and is retrievable in perceivable form.
- 35 (69) “Registered organization” means an organization organized  
36 solely under the law of a single state or the United States and as to which  
37 the state or the United States must maintain a public record showing the  
38 organization to have been organized.
- 39 (70) “Secondary obligor” means an obligor to the extent that:
- 40 (A) The obligor’s obligation is secondary; or
- 41 (B) the obligor has a right of recourse with respect to an obligation  
42 secured by collateral against the debtor, another obligor, or property of  
43 either.



1 (71) “Secured party” means:

2 (A) A person in whose favor a security interest is created or provided  
3 for under a security agreement, whether or not any obligation to be se-  
4 cured is outstanding;

5 (B) a person that holds an agricultural lien;

6 (C) a consignor;

7 (D) a person to which accounts, chattel paper, payment intangibles,  
8 or promissory notes have been sold;

9 (E) a trustee, indenture trustee, agent, collateral agent, or other rep-  
10 resentative in whose favor a security interest or agricultural lien is created  
11 or provided for; or

12 (F) a person that holds a security interest arising under K.S.A. 84-2-  
13 401, 84-2-505, subsection (3) of 84-2-711, subsection (5) of 84-2a-508,  
14 84-4-210 and 84-5-118 and amendments thereto.

15 (72) “Security agreement” means an agreement that creates or pro-  
16 vides for a security interest.

17 (73) “Send,” in connection with a record or notification, means:

18 (A) To deposit in the mail, deliver for transmission, or transmit by  
19 any other usual means of communication, with postage or cost of trans-  
20 mission provided for, addressed to any address reasonable under the cir-  
21 cumstances; or

22 (B) to cause the record or notification to be received within the time  
23 that it would have been received if properly sent under subparagraph (A).

24 (74) “Software” means a computer program and any supporting in-  
25 formation provided in connection with a transaction relating to the pro-  
26 gram. The term does not include a computer program that is included in  
27 the definition of goods.

28 (75) “State” means a state of the United States, the District of Co-  
29 lumbia, Puerto Rico, the United States Virgin Islands, or any territory or  
30 insular possession subject to the jurisdiction of the United States.

31 (76) “Statutory lien” means liens created by K.S.A. 2-1319, 2-2608,  
32 2-3007, 34-239, 47-836, 58-201, 58-203, 58-204, 58-207, 58-218, 58-220,  
33 58-221, 58-241, 58-242, 58-2524, 58-2525, 58-2526, 58-2527; *and* 58-  
34 2528 ~~and 84-7-209~~, *and section 15 of 2007 Senate Bill No. 308*, *and*  
35 amendments thereto.

36 (77) “Supporting obligation” means a letter-of-credit right or second-  
37 ary obligation that supports the payment or performance of an account,  
38 chattel paper, a document, a general intangible, an instrument, or in-  
39 vestment property.

40 (78) “Tangible chattel paper” means chattel paper evidenced by a  
41 record or records consisting of information that is inscribed on a tangible  
42 medium.

43 (79) “Termination statement” means an amendment of a financing

- 1 statement which:
- 2 (A) Identifies, by its file number, the initial financing statement to
- 3 which it relates; and
- 4 (B) indicates either that it is a termination statement or that the iden-
- 5 tified financing statement is no longer effective.
- 6 (80) “Transmitting utility” means a person primarily engaged in the
- 7 business of:
- 8 (A) Operating a railroad, subway, street railway, or trolley bus;
- 9 (B) transmitting communications electrically, electromagnetically, or
- 10 by light;
- 11 (C) transmitting goods by pipeline or sewer; or
- 12 (D) transmitting or producing and transmitting electricity, steam, gas,
- 13 or water.
- 14 (b) **Definitions in other articles.** The following definitions in other
- 15 articles apply to this article
- 16 “Applicant” K.S.A. 84-5-102, and amendments thereto
- 17 “Beneficiary” K.S.A. 84-5-102, and amendments thereto
- 18 “Broker” K.S.A. 84-8-102, and amendments thereto
- 19 “Certificated security” K.S.A. 84-8-102, and amendments thereto
- 20 “Check” K.S.A. 84-3-104, and amendments thereto
- 21 “Clearing corporation” K.S.A. 84-8-102, and amendments thereto
- 22 “Contract for sale” K.S.A. 84-2-106, and amendments thereto
- 23 “Customer” K.S.A. 84-4-104, and amendments thereto
- 24 “Entitlement holder” K.S.A. 84-8-102, and amendments thereto
- 25 “Financial asset” K.S.A. 84-8-102, and amendments thereto
- 26 “Holder in due course” K.S.A. 84-3-302, and amendments thereto
- 27 “Issuer” (with respect to a K.S.A. 84-5-102, and amendments thereto
- 28 letter of credit or
- 29 letter-of-credit right)
- 30 “Issuer” (with respect to a K.S.A. 84-8-102, and amendments thereto
- 31 security)
- 32 “*Issuer*” (*with respect to*
- 33 *documents of title*) K.S.A. 2006 Supp. 84-7-102, and
- 34 *amendments thereto*
- 35 “Lease” K.S.A. 84-2a-103, and amendments thereto
- 36 “Lease agreement” K.S.A. 84-2a-103, and amendments thereto
- 37 “Lease contract” K.S.A. 84-2a-103, and amendments thereto
- 38 “Leasehold interest” K.S.A. 84-2a-103, and amendments thereto
- 39 “Lessee” K.S.A. 84-2a-103, and amendments thereto
- 40 “Lessee in ordinary K.S.A. 84-2a-103, and amendments thereto
- 41 course of business”
- 42 “Lessor” K.S.A. 84-2a-103, and amendments thereto

1	“Lessor’s	K.S.A. 84-2a-103, and amendments thereto
2	residual interest”	
3	“Letter of credit”	K.S.A. 84-5-102, and amendments thereto
4	“Merchant”	K.S.A. 84-2-104, and amendments thereto
5	“Negotiable instrument”	K.S.A. 84-3-104, and amendments thereto
6	“Nominated person”	K.S.A. 84-5-102, and amendments thereto
7	“Note”	K.S.A. 84-3-104, and amendments thereto
8	“Proceeds of a letter	K.S.A. 84-5-114, and amendments thereto
9	of credit”	
10	“Prove”	K.S.A. 84-3-103, and amendments thereto
11	“Sale”	K.S.A. 84-2-106, and amendments thereto
12	“Securities account”	K.S.A. 84-8-501, and amendments thereto
13	“Securities intermediary”	K.S.A. 84-8-102, and amendments thereto
14	“Security”	K.S.A. 84-8-102, and amendments thereto
15	“Security certificate”	K.S.A. 84-8-102, and amendments thereto
16	“Security entitlement”	K.S.A. 84-8-102, and amendments thereto
17	“Uncertificated security”	K.S.A. 84-8-102, and amendments thereto

18 (c) **Article 1 of chapter 84 of the Kansas Statutes Annotated,**  
 19 **and amendments thereto, definitions and principles.** Article 1 of  
 20 chapter 84 of the Kansas Statutes Annotated, and amendments thereto,  
 21 contains general definitions and principles of construction and interpreta-  
 22 tion applicable throughout this article.

23 Sec. 52. K.S.A. 2006 Supp. 12-187, as amended by section 6 of 2007  
 24 Senate Bill No. 115, is hereby amended to read as follows: 12-187. (a)  
 25 No city shall impose a retailers’ sales tax under the provisions of this act  
 26 without the governing body of such city having first submitted such prop-  
 27 osition to and having received the approval of a majority of the electors  
 28 of the city voting thereon at an election called and held therefor. The  
 29 governing body of any city may submit the question of imposing a retail-  
 30 ers’ sales tax and the governing body shall be required to submit the  
 31 question upon submission of a petition signed by electors of such city  
 32 equal in number to not less than 10% of the electors of such city.

33 (b) (1) The board of county commissioners of any county may submit  
 34 the question of imposing a countywide retailers’ sales tax to the electors  
 35 at an election called and held thereon, and any such board shall be re-  
 36 quired to submit the question upon submission of a petition signed by  
 37 electors of such county equal in number to not less than 10% of the  
 38 electors of such county who voted at the last preceding general election  
 39 for the office of secretary of state, or upon receiving resolutions request-  
 40 ing such an election passed by not less than  $\frac{2}{3}$  of the membership of the  
 41 governing body of each of one or more cities within such county which  
 42 contains a population of not less than 25% of the entire population of the  
 43 county, or upon receiving resolutions requesting such an election passed

1 by  $\frac{2}{3}$  of the membership of the governing body of each of one or more  
2 taxing subdivisions within such county which levy not less than 25% of  
3 the property taxes levied by all taxing subdivisions within the county.

4 (2) The board of county commissioners of Anderson, Atchison, Bar-  
5 ton, Butler, Chase, Cowley, Cherokee, Crawford, Ford, Franklin, Jeffer-  
6 son, Linn, Lyon, Marion, Miami, Montgomery, Neosho, Osage, Ottawa,  
7 Reno, Riley, Saline, Seward, Sumner, Wabaunsee, Wilson and Wyandotte  
8 counties may submit the question of imposing a countywide retailers' sales  
9 tax and pledging the revenue received therefrom for the purpose of fi-  
10 nancing the construction or remodeling of a courthouse, jail, law enforce-  
11 ment center facility or other county administrative facility, to the electors  
12 at an election called and held thereon. The tax imposed pursuant to this  
13 paragraph shall expire when sales tax sufficient to pay all of the costs  
14 incurred in the financing of such facility has been collected by retailers  
15 as determined by the secretary of revenue. Nothing in this paragraph  
16 shall be construed to allow the rate of tax imposed by Butler, Chase,  
17 Cowley, Lyon, Montgomery, Neosho, Riley, Sumner or Wilson county  
18 pursuant to this paragraph to exceed or be imposed at any rate other than  
19 the rates prescribed in K.S.A. 12-189, and amendments thereto.

20 (3) (A) Except as otherwise provided in this paragraph, the result of  
21 the election held on November 8, 1988, on the question submitted by  
22 the board of county commissioners of Jackson county for the purpose of  
23 increasing its countywide retailers' sales tax by 1% is hereby declared  
24 valid, and the revenue received therefrom by the county shall be ex-  
25 pended solely for the purpose of financing the Banner Creek reservoir  
26 project. The tax imposed pursuant to this paragraph shall take effect on  
27 the effective date of this act and shall expire not later than five years after  
28 such date.

29 (B) The result of the election held on November 8, 1994, on the  
30 question submitted by the board of county commissioners of Ottawa  
31 county for the purpose of increasing its countywide retailers' sales tax by  
32 1% is hereby declared valid, and the revenue received therefrom by the  
33 county shall be expended solely for the purpose of financing the erection,  
34 construction and furnishing of a law enforcement center and jail facility.

35 (C) Except as otherwise provided in this paragraph, the result of the  
36 election held on November 2, 2004, on the question submitted by the  
37 board of county commissioners of Sedgwick county for the purpose of  
38 increasing its countywide retailers' sales tax by 1% is hereby declared  
39 valid, and the revenue received therefrom by the county shall be used  
40 only to pay the costs of: (i) Acquisition of a site and constructing and  
41 equipping thereon a new regional events center, associated parking and  
42 infrastructure improvements and related appurtenances thereto, to be  
43 located in the downtown area of the city of Wichita, Kansas, (the "down-

1 town arena”); (ii) design for the Kansas coliseum complex and construc-  
2 tion of improvements to the pavilions; and (iii) establishing an operating  
3 and maintenance reserve for the downtown arena and the Kansas colise-  
4 um complex. The tax imposed pursuant to this paragraph shall com-  
5 mence on July 1, 2005, and shall terminate not later than 30 months after  
6 the commencement thereof.

7 (4) The board of county commissioners of Finney and Ford counties  
8 may submit the question of imposing a countywide retailers’ sales tax at  
9 the rate of .25% and pledging the revenue received therefrom for the  
10 purpose of financing all or any portion of the cost to be paid by Finney  
11 or Ford county for construction of highway projects identified as system  
12 enhancements under the provisions of paragraph (5) of subsection (b) of  
13 K.S.A. 68-2314, and amendments thereto, to the electors at an election  
14 called and held thereon. Such election shall be called and held in the  
15 manner provided by the general bond law. The tax imposed pursuant to  
16 this paragraph shall expire upon the payment of all costs authorized pur-  
17 suant to this paragraph in the financing of such highway projects. Nothing  
18 in this paragraph shall be construed to allow the rate of tax imposed by  
19 Finney or Ford county pursuant to this paragraph to exceed the maximum  
20 rate prescribed in K.S.A. 12-189, and amendments thereto. If any funds  
21 remain upon the payment of all costs authorized pursuant to this para-  
22 graph in the financing of such highway projects in Finney county, the  
23 state treasurer shall remit such funds to the treasurer of Finney county  
24 and upon receipt of such moneys shall be deposited to the credit of the  
25 county road and bridge fund. If any funds remain upon the payment of  
26 all costs authorized pursuant to this paragraph in the financing of such  
27 highway projects in Ford county, the state treasurer shall remit such funds  
28 to the treasurer of Ford county and upon receipt of such moneys shall  
29 be deposited to the credit of the county road and bridge fund.

30 (5) The board of county commissioners of any county may submit the  
31 question of imposing a retailers’ sales tax at the rate of .25%, .5%, .75%  
32 or 1% and pledging the revenue received therefrom for the purpose of  
33 financing the provision of health care services, as enumerated in the ques-  
34 tion, to the electors at an election called and held thereon. Whenever any  
35 county imposes a tax pursuant to this paragraph, any tax imposed pursuant  
36 to paragraph (2) of subsection (a) by any city located in such county shall  
37 expire upon the effective date of the imposition of the countywide tax,  
38 and thereafter the state treasurer shall remit to each such city that portion  
39 of the countywide tax revenue collected by retailers within such city as  
40 certified by the director of taxation. The tax imposed pursuant to this  
41 paragraph shall be deemed to be in addition to the rate limitations pre-  
42 scribed in K.S.A. 12-189, and amendments thereto. As used in this para-  
43 graph, health care services shall include but not be limited to the follow-

1 ing: Local health departments, city or county hospitals, city or county  
2 nursing homes, preventive health care services including immunizations,  
3 prenatal care and the postponement of entry into nursing homes by home  
4 care services, mental health services, indigent health care, physician or  
5 health care worker recruitment, health education, emergency medical  
6 services, rural health clinics, integration of health care services, home  
7 health services and rural health networks.

8 (6) The board of county commissioners of Allen county may submit  
9 the question of imposing a countywide retailers' sales tax at the rate of  
10 .5% and pledging the revenue received therefrom for the purpose of  
11 financing the costs of operation and construction of a solid waste disposal  
12 area or the modification of an existing landfill to comply with federal  
13 regulations to the electors at an election called and held thereon. The tax  
14 imposed pursuant to this paragraph shall expire upon the payment of all  
15 costs incurred in the financing of the project undertaken. Nothing in this  
16 paragraph shall be construed to allow the rate of tax imposed by Allen  
17 county pursuant to this paragraph to exceed or be imposed at any rate  
18 other than the rates prescribed in K.S.A. 12-189 and amendments  
19 thereto.

20 (7) The board of county commissioners of Clay, Dickinson and Miami  
21 county may submit the question of imposing a countywide retailers' sales  
22 tax at the rate of .50% in the case of Clay and Dickinson county and at a  
23 rate of up to 1% in the case of Miami county, and pledging the revenue  
24 received therefrom for the purpose of financing the costs of roadway  
25 construction and improvement to the electors at an election called and  
26 held thereon. Except as otherwise provided, the tax imposed pursuant to  
27 this paragraph shall expire after five years from the date such tax is first  
28 collected. The result of the election held on November 2, 2004, on the  
29 question submitted by the board of county commissioners of Miami  
30 county for the purpose of extending for an additional five-year period the  
31 countywide retailers' sales tax imposed pursuant to this subsection in Mi-  
32 ami county is hereby declared valid. The countywide retailers' sales tax  
33 imposed pursuant to this subsection in Clay and Miami county may be  
34 extended or reenacted for additional five-year periods upon the board of  
35 county commissioners of Clay and Miami county submitting such ques-  
36 tion to the electors at an election called and held thereon for each addi-  
37 tional five-year period as provided by law.

38 (8) The board of county commissioners of Sherman county may sub-  
39 mit the question of imposing a countywide retailers' sales tax at the rate  
40 of 1% and pledging the revenue received therefrom for the purpose of  
41 financing the costs of street and roadway improvements to the electors  
42 at an election called and held thereon. The tax imposed pursuant to this  
43 paragraph shall expire upon payment of all costs authorized pursuant to

1 this paragraph in the financing of such project.

2 (9) The board of county commissioners of Cowley, Crawford, Russell  
3 and Woodson county may submit the question of imposing a countywide  
4 retailers' sales tax at the rate of .5% in the case of Crawford, Russell and  
5 Woodson county and at a rate of up to .25%, in the case of Cowley county  
6 and pledging the revenue received therefrom for the purpose of financing  
7 economic development initiatives or public infrastructure projects. The  
8 tax imposed pursuant to this paragraph shall expire after five years from  
9 the date such tax is first collected.

10 (10) The board of county commissioners of Franklin county may sub-  
11 mit the question of imposing a countywide retailers' sales tax at the rate  
12 of .25% and pledging the revenue received therefrom for the purpose of  
13 financing recreational facilities. The tax imposed pursuant to this para-  
14 graph shall expire upon payment of all costs authorized in financing such  
15 facilities.

16 (11) The board of county commissioners of Douglas county may sub-  
17 mit the question of imposing a countywide retailers' sales tax at the rate  
18 of .25% and pledging the revenue received therefrom for the purposes  
19 of preservation, access and management of open space, and for industrial  
20 and business park related economic development.

21 (12) The board of county commissioners of Shawnee county may sub-  
22 mit the question of imposing a countywide retailers' sales tax at the rate  
23 of .25% and pledging the revenue received therefrom to the city of To-  
24 peka for the purpose of financing the costs of rebuilding the Topeka  
25 boulevard bridge and other public infrastructure improvements associ-  
26 ated with such project to the electors at an election called and held thereon.  
27 The tax imposed pursuant to this paragraph shall expire upon  
28 payment of all costs authorized in financing such project.

29 (13) The board of county commissioners of Jackson county may sub-  
30 mit the question of imposing a countywide retailers' sales tax at a rate of  
31 .4% and pledging the revenue received therefrom as follows: 50% of such  
32 revenues for the purpose of financing for economic development initia-  
33 tives; and 50% of such revenues for the purpose of financing public in-  
34 frastructure projects to the electors at an election called and held thereon.  
35 The tax imposed pursuant to this paragraph shall expire after seven years  
36 from the date such tax is first collected.

37 (14) The board of county commissioners of Neosho county may sub-  
38 mit the question of imposing a countywide retailers' sales tax at the rate  
39 of .5% and pledging the revenue received therefrom for the purpose of  
40 financing the costs of roadway construction and improvement to the elec-  
41 tors at an election called and held thereon. The tax imposed pursuant to  
42 this paragraph shall expire upon payment of all costs authorized pursuant  
43 to this paragraph in the financing of such project.

1 (15) The board of county commissioners of Saline county may submit  
2 the question of imposing a countywide retailers' sales tax at the rate of  
3 up to .5% and pledging the revenue received therefrom for the purpose  
4 of financing the costs of construction and operation of an expo center to  
5 the electors at an election called and held thereon. The tax imposed pur-  
6 suant to this paragraph shall expire after five years from the date such tax  
7 is first collected.

8 (16) The board of county commissioners of Harvey county may sub-  
9 mit the question of imposing a countywide retailers' sales tax at the rate  
10 of 1.0% and pledging the revenue received therefrom for the purpose of  
11 financing the costs of property tax relief, economic development initia-  
12 tives and public infrastructure improvements to the electors at an election  
13 called and held thereon.

14 (17) The board of county commissioners of Atchison county may sub-  
15 mit the question of imposing a countywide retailers' sales tax at the rate  
16 of .25% and pledging the revenue received therefrom for the purpose of  
17 financing the costs of construction and maintenance of sports and rec-  
18 reational facilities to the electors at an election called and held thereon.  
19 The tax imposed pursuant to this paragraph shall expire upon payment  
20 of all costs authorized in financing such facilities.

21 (18) The board of county commissioners of Wabaunsee county may  
22 submit the question of imposing a countywide retailers' sales tax at the  
23 rate of .5% and pledging the revenue received therefrom for the purpose  
24 of financing the costs of bridge and roadway construction and improve-  
25 ment to the electors at an election called and held thereon. The tax im-  
26 posed pursuant to this paragraph shall expire after 15 years from the date  
27 such tax is first collected.

28 (19) The board of county commissioners of Jefferson county may sub-  
29 mit the question of imposing a countywide retailers' sales tax at the rate  
30 of 1% and pledging the revenue received therefrom for the purpose of  
31 financing the costs of roadway construction and improvement to the elec-  
32 tors at an election called and held thereon. The tax imposed pursuant to  
33 this paragraph shall expire after six years from the date such tax is first  
34 collected. The countywide retailers' sales tax imposed pursuant to this  
35 paragraph may be extended or reenacted for additional six-year periods  
36 upon the board of county commissioners of Jefferson county submitting  
37 such question to the electors at an election called and held thereon for  
38 each additional six-year period as provided by law.

39 (20) The board of county commissioners of Riley county may submit  
40 the question of imposing a countywide retailers' sales tax at the rate of  
41 up to 1% and pledging the revenue received therefrom for the purpose  
42 of financing the costs of bridge and roadway construction and improve-  
43 ment to the electors at an election called and held thereon. The tax im-



1 posed pursuant to this paragraph shall expire after five years from the  
2 date such tax is first collected.

3 (21) *The board of county commissioners of Johnson county may sub-*  
4 *mit the question of imposing a countywide retailers' sales tax at the rate*  
5 *of .25% and pledging the revenue received therefrom for the purpose of*  
6 *financing the construction and operation costs of public safety projects,*  
7 *including, but not limited to, a jail, detention center, sheriff's resource*  
8 *center, crime lab or other county administrative or operational facility*  
9 *dedicated to public safety, to the electors at an election called and held*  
10 *thereon. The tax imposed pursuant to this paragraph shall expire after 10*  
11 *years from the date such tax is first collected. The countywide retailers'*  
12 *sales tax imposed pursuant to this subsection may be extended or reen-*  
13 *acted for additional periods not exceeding 10 years upon the board of*  
14 *county commissioners of Johnson county submitting such question to the*  
15 *electors at an election called and held thereon for each additional ten-*  
16 *year period as provided by law.*

17 (c) The boards of county commissioners of any two or more contig-  
18 uous counties, upon adoption of a joint resolution by such boards, may  
19 submit the question of imposing a retailers' sales tax within such counties  
20 to the electors of such counties at an election called and held thereon  
21 and such boards of any two or more contiguous counties shall be required  
22 to submit such question upon submission of a petition in each of such  
23 counties, signed by a number of electors of each of such counties where  
24 submitted equal in number to not less than 10% of the electors of each  
25 of such counties who voted at the last preceding general election for the  
26 office of secretary of state, or upon receiving resolutions requesting such  
27 an election passed by not less than  $\frac{2}{3}$  of the membership of the governing  
28 body of each of one or more cities within each of such counties which  
29 contains a population of not less than 25% of the entire population of  
30 each of such counties, or upon receiving resolutions requesting such an  
31 election passed by  $\frac{2}{3}$  of the membership of the governing body of each  
32 of one or more taxing subdivisions within each of such counties which  
33 levy not less than 25% of the property taxes levied by all taxing subdivi-  
34 sions within each of such counties.

35 (d) Any city retailers' sales tax being levied by a city prior to July 1,  
36 2006, shall continue in effect until repealed in the manner provided  
37 herein for the adoption and approval of such tax or until repealed by the  
38 adoption of an ordinance for such repeal. Any countywide retailers' sales  
39 tax in the amount of .5% or 1% in effect on July 1, 1990, shall continue  
40 in effect until repealed in the manner provided herein for the adoption  
41 and approval of such tax.

42 (e) Any city or county proposing to adopt a retailers' sales tax shall  
43 give notice of its intention to submit such proposition for approval by the

1 electors in the manner required by K.S.A. 10-120, and amendments  
2 thereto. The notices shall state the time of the election and the rate and  
3 effective date of the proposed tax. If a majority of the electors voting  
4 thereon at such election fail to approve the proposition, such proposition  
5 may be resubmitted under the conditions and in the manner provided in  
6 this act for submission of the proposition. If a majority of the electors  
7 voting thereon at such election shall approve the levying of such tax, the  
8 governing body of any such city or county shall provide by ordinance or  
9 resolution, as the case may be, for the levy of the tax. Any repeal of such  
10 tax or any reduction or increase in the rate thereof, within the limits  
11 prescribed by K.S.A. 12-189, and amendments thereto, shall be accom-  
12 plished in the manner provided herein for the adoption and approval of  
13 such tax except that the repeal of any such city retailers' sales tax may be  
14 accomplished by the adoption of an ordinance so providing.

15 (f) The sufficiency of the number of signers of any petition filed un-  
16 der this section shall be determined by the county election officer. Every  
17 election held under this act shall be conducted by the county election  
18 officer.

19 (g) The governing body of the city or county proposing to levy any  
20 retailers' sales tax shall specify the purpose or purposes for which the  
21 revenue would be used, and a statement generally describing such pur-  
22 pose or purposes shall be included as a part of the ballot proposition.

23 Sec. 53. K.S.A. 2006 Supp. 12-189, as amended by section 7 of 2007  
24 Senate Bill No. 115, is hereby amended to read as follows: 12-189. The  
25 rate of any city retailers' sales tax shall be fixed in increments of .05% and  
26 in an amount not to exceed 2% for general purposes and not to exceed  
27 1% for special purposes which shall be determined by the governing body  
28 of the city. For any retailers' sales tax imposed by a city for special pur-  
29 poses, such city shall specify the purposes for which such tax is imposed.  
30 All such special purpose retailers' sales taxes imposed by a city shall expire  
31 after 10 years from the date such tax is first collected. The rate of any  
32 countywide retailers' sales tax shall be fixed in an amount of either .25%,  
33 .5%, .75% or 1% which amount shall be determined by the board of  
34 county commissioners, except that:

35 (a) The board of county commissioners of Wabaunsee county, for the  
36 purposes of paragraph (2) of subsection (b) of K.S.A. 12-187, and amend-  
37 ments thereto, may fix such rate at 1.25%; the board of county commis-  
38 sioners of Osage or Reno county, for the purposes of paragraph (2) of  
39 subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such  
40 rate at 1.25% or 1.5%; the board of county commissioners of Cherokee,  
41 Crawford, Ford, Saline, Seward or Wyandotte county, for the purposes  
42 of paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments  
43 thereto, may fix such rate at 1.5%, the board of county commissioners of

1 Atchison county, for the purposes of paragraph (2) of subsection (b) of  
2 K.S.A. 12-187, and amendments thereto, may fix such rate at 1.5% or  
3 1.75%; the board of county commissioners of Anderson, Barton, Jefferson  
4 or Ottawa county, for the purposes of paragraph (2) of subsection (b) of  
5 K.S.A. 12-187, and amendments thereto, may fix such rate at 2%; the  
6 board of county commissioners of Marion county, for the purposes of  
7 paragraph (2) of subsection (b) of K.S.A. 12-187, and amendments  
8 thereto, may fix such rate at 2.5%; and the board of county commissioners  
9 of Franklin, Linn and Miami counties, for the purposes of paragraph (2)  
10 of subsection (b) of K.S.A. 12-187, and amendments thereto, may fix such  
11 rate at a percentage which is equal to the sum of the rate allowed to be  
12 imposed by the respective board of county commissioners on July 1, 2007,  
13 plus up to 1.0%;

14 (b) the board of county commissioners of Jackson county, for the  
15 purposes of paragraph (3) of subsection (b) of K.S.A. 12-187, and amend-  
16 ments thereto, may fix such rate at 2%;

17 (c) the boards of county commissioners of Finney and Ford counties,  
18 for the purposes of paragraph (4) of subsection (b) of K.S.A. 12-187, and  
19 amendments thereto, may fix such rate at .25%;

20 (d) the board of county commissioners of any county for the purposes  
21 of paragraph (5) of subsection (b) of K.S.A. 12-187, and amendments  
22 thereto, may fix such rate at a percentage which is equal to the sum of  
23 the rate allowed to be imposed by a board of county commissioners on  
24 the effective date of this act plus .25%, .5%, .75% or 1%, as the case  
25 requires;

26 (e) the board of county commissioners of Dickinson county, for the  
27 purposes of paragraph (7) of subsection (b) of K.S.A. 12-187, and amend-  
28 ments thereto, may fix such rate at 1.5%, and the board of county com-  
29 missioners of Miami county, for the purposes of paragraph (7) of subsec-  
30 tion (b) of K.S.A. 12-187, and amendments thereto, may fix such rate at  
31 1.25%, 1.5%, 1.75% or 2%;

32 (f) the board of county commissioners of Sherman county, for the  
33 purposes of paragraph (8) of subsection (b) of K.S.A. 12-187, and amend-  
34 ments thereto, may fix such rate at 2.25%;

35 (g) the board of county commissioners of Crawford or Russell county  
36 for the purposes of paragraph (9) of subsection (b) of K.S.A. 12-187, and  
37 amendments thereto, may fix such rate at 1.5%;

38 (h) the board of county commissioners of Franklin county, for the  
39 purposes of paragraph (10) of subsection (b) of K.S.A. 12-187, and  
40 amendments thereto, may fix such rate at 1.75%;

41 (i) the board of county commissioners of Douglas county, for the  
42 purposes of paragraph (11) of subsection (b) of K.S.A. 12-187, and  
43 amendments thereto, may fix such rate at 1.25%;

- 1 (j) the board of county commissioners of Jackson county, for the pur-  
2 poses of subsection (b)(13) of K.S.A. 12-187 and amendments thereto,  
3 may fix such rate at 1.4%;
- 4 (k) the board of county commissioners of Sedgwick county, for the  
5 purposes of paragraph (3)(C) of subsection (b) of K.S.A. 12-187, and  
6 amendments thereto, may fix such rate at 2%;
- 7 (l) the board of county commissioners of Neosho county, for the pur-  
8 poses of paragraph (14) of subsection (b) of K.S.A. 12-187, and amend-  
9 ments thereto, may fix such rate at 1.0% or 1.5%;
- 10 (m) the board of county commissioners of Saline county, for the pur-  
11 poses of subsection (15) of subsection (b) of K.S.A. 12-187, and amend-  
12 ments thereto, may fix such rate at up to 1.5%;
- 13 (n) the board of county commissioners of Harvey county, for the pur-  
14 poses of paragraph (16) of subsection (b) of K.S.A. 12-187, and amend-  
15 ments thereto, may fix such rate at 2.0%;
- 16 (o) the board of county commissioners of Atchison county, for the  
17 purpose of paragraph (17) of subsection (b) of K.S.A. 12-187, and amend-  
18 ments thereto, may fix such rate at a percentage which is equal to the  
19 sum of the rate allowed to be imposed by the board of county commis-  
20 sioners of Atchison county on the effective date of this act plus .25%;
- 21 (p) the board of county commissioners of Wabaunsee county, for the  
22 purpose of paragraph (18) of subsection (b) of K.S.A. 12-187, and amend-  
23 ments thereto, may fix such rate at a percentage which is equal to the  
24 sum of the rate allowed to be imposed by the board of county commis-  
25 sioners of Wabaunsee county on July 1, 2007, plus .5%;
- 26 (q) the board of county commissioners of Jefferson county, for the  
27 purpose of paragraph (19) of subsection (b) of K.S.A. 12-187, and amend-  
28 ments thereto, may fix such rate at 2.0%; ~~and~~
- 29 (r) the board of county commissioners of Riley county, for the pur-  
30 pose of paragraph (20) of subsection (b) of K.S.A. 12-187, and amend-  
31 ments thereto, may fix such rate at a percentage which is equal to the  
32 sum of the rate allowed to be imposed by the board of county commis-  
33 sioners of Riley county on July 1, 2007, plus up to 1%; *and*
- 34 (s) *the board of county commissioners of Johnson county for the pur-*  
35 *poses of paragraph (18) of subsection (b) of K.S.A. 12-187, and amend-*  
36 *ments thereto, may fix such rate at a percentage which is equal to the sum*  
37 *of the rate allowed to be imposed by the board of county commissioners*  
38 *of Johnson county on July 1, 2007, plus .25%.*
- 39 Any county or city levying a retailers' sales tax is hereby prohibited  
40 from administering or collecting such tax locally, but shall utilize the serv-  
41 ices of the state department of revenue to administer, enforce and collect  
42 such tax. Except as otherwise specifically provided in K.S.A. 12-189a, and  
43 amendments thereto, such tax shall be identical in its application, and

1 exemptions therefrom, to the Kansas retailers' sales tax act and all laws  
2 and administrative rules and regulations of the state department of rev-  
3 enue relating to the Kansas retailers' sales tax shall apply to such local  
4 sales tax insofar as such laws and rules and regulations may be made  
5 applicable. The state director of taxation is hereby authorized to admin-  
6 ister, enforce and collect such local sales taxes and to adopt such rules  
7 and regulations as may be necessary for the efficient and effective ad-  
8 ministration and enforcement thereof.

9       Upon receipt of a certified copy of an ordinance or resolution author-  
10 izing the levy of a local retailers' sales tax, the director of taxation shall  
11 cause such taxes to be collected within or without the boundaries of such  
12 taxing subdivision at the same time and in the same manner provided for  
13 the collection of the state retailers' sales tax. Such copy shall be submitted  
14 to the director of taxation within 30 days after adoption of any such or-  
15 dinance or resolution. All moneys collected by the director of taxation  
16 under the provisions of this section shall be credited to a county and city  
17 retailers' sales tax fund which fund is hereby established in the state treas-  
18 ury. Any refund due on any county or city retailers' sales tax collected  
19 pursuant to this act shall be paid out of the sales tax refund fund and  
20 reimbursed by the director of taxation from collections of local retailers'  
21 sales tax revenue. Except for local retailers' sales tax revenue required to  
22 be deposited in the redevelopment bond fund established under K.S.A.  
23 74-8927, and amendments thereto, all local retailers' sales tax revenue  
24 collected within any county or city pursuant to this act shall be appor-  
25 tioned and remitted at least quarterly by the state treasurer, on instruction  
26 from the director of taxation, to the treasurer of such county or city.

27       Revenue that is received from the imposition of a local retailers' sales  
28 tax which exceeds the amount of revenue required to pay the costs of a  
29 special project for which such revenue was pledged shall be credited to  
30 the city or county general fund, as the case requires.

31       The director of taxation shall provide, upon request by a city or county  
32 clerk or treasurer or finance officer of any city or county levying a local  
33 retailers' sales tax, monthly reports identifying each retailer doing busi-  
34 ness in such city or county or making taxable sales sourced to such city  
35 or county, setting forth the tax liability and the amount of such tax re-  
36 mitted by each retailer during the preceding month and identifying each  
37 business location maintained by the retailer and such retailer's sales or  
38 use tax registration or account number. Such report shall be made avail-  
39 able to the clerk or treasurer or finance officer of such city or county  
40 within a reasonable time after it has been requested from the director of  
41 taxation. The director of taxation shall be allowed to assess a reasonable  
42 fee for the issuance of such report. Information received by any city or  
43 county pursuant to this section shall be confidential, and it shall be un-

1 lawful for any officer or employee of such city or county to divulge any  
2 such information in any manner. Any violation of this paragraph by a city  
3 or county officer or employee is a class A misdemeanor, and such officer  
4 or employee shall be dismissed from office. Reports of violations of this  
5 paragraph shall be investigated by the attorney general. The district at-  
6 torney or county attorney and the attorney general shall have authority  
7 to prosecute violations of this paragraph.

8 Sec. 54. K.S.A. 2006 Supp. 12-192, as amended by section 8 of 2007  
9 Senate Bill No. 115, is hereby amended to read as follows: 12-192. (a)  
10 Except as otherwise provided by subsection (b), (d) or (h), all revenue  
11 received by the director of taxation from a countywide retailers' sales tax  
12 shall be apportioned among the county and each city located in such  
13 county in the following manner: (1) One-half of all revenue received by  
14 the director of taxation shall be apportioned among the county and each  
15 city located in such county in the proportion that the total tangible prop-  
16 erty tax levies made in such county in the preceding year for all funds of  
17 each such governmental unit bear to the total of all such levies made in  
18 the preceding year, and (2)  $\frac{1}{2}$  of all revenue received by the director of  
19 taxation from such countywide retailers' sales tax shall be apportioned  
20 among the county and each city located in such county, first to the county  
21 that portion of the revenue equal to the proportion that the population  
22 of the county residing in the unincorporated area of the county bears to  
23 the total population of the county, and second to the cities in the pro-  
24 portion that the population of each city bears to the total population of  
25 the county, except that no persons residing within the Fort Riley military  
26 reservation shall be included in the determination of the population of  
27 any city located within Riley county. All revenue apportioned to a county  
28 shall be paid to its county treasurer and shall be credited to the general  
29 fund of the county.

30 (b) (1) ~~As an alternative and~~ In lieu of the apportionment formula  
31 provided in subsection (a), all revenue received by the director of taxation  
32 from a countywide retailers' sales tax imposed within Johnson county at  
33 the rate of .75% ~~or, 1% or 1.25%~~ after the effective date of this act may  
34 *July 1, 2007, shall* be apportioned among the county and each city located  
35 in such county in the following manner: (A) The revenue received from  
36 the first .5% rate of tax shall be apportioned in the manner prescribed by  
37 subsection (a) and (B) the revenue received from the rate of tax exceeding  
38 .5% shall be apportioned as follows: (i) One-fourth shall be apportioned  
39 among the county and each city located in such county in the proportion  
40 that the total tangible property tax levies made in such county in the  
41 preceding year for all funds of each such governmental unit bear to the  
42 total of all such levies made in the preceding year and (ii) one-fourth shall  
43 be apportioned among the county and each city located in such county,

1 first to the county that portion of the revenue equal to the proportion  
2 that the population of the county residing in the unincorporated area of  
3 the county bears to the total population of the county, and second to the  
4 cities in the proportion that the population of each city bears to the total  
5 population of the county and (iii) one-half shall be retained by the county  
6 for its sole use and benefit.

7 (2) In lieu of the apportionment formula provided in subsection (a),  
8 all money received by the director of taxation from a countywide sales tax  
9 imposed within Montgomery county pursuant to the election held on  
10 November 8, 1994, shall be remitted to and shall be retained by the  
11 county and expended only for the purpose for which the revenue received  
12 from the tax was pledged. All revenue apportioned and paid from the  
13 imposition of such tax to the treasurer of any city prior to the effective  
14 date of this act shall be remitted to the county treasurer and expended  
15 only for the purpose for which the revenue received from the tax was  
16 pledged.

17 (3) In lieu of the apportionment formula provided in subsection (a),  
18 on and after the effective date of this act, all moneys received by the  
19 director of taxation from a countywide retailers' sales tax imposed within  
20 Phillips county pursuant to the election held on September 20, 2005, shall  
21 be remitted to and shall be retained by the county and expended only for  
22 the purpose for which the revenue received from the tax was pledged.

23 (c) (1) Except as otherwise provided by paragraph (2) of this subsec-  
24 tion, for purposes of subsections (a) and (b), the term "total tangible  
25 property tax levies" means the aggregate dollar amount of tax revenue  
26 derived from ad valorem tax levies applicable to all tangible property  
27 located within each such city or county. The ad valorem property tax levy  
28 of any county or city district entity or subdivision shall be included within  
29 this term if the levy of any such district entity or subdivision is applicable  
30 to all tangible property located within each such city or county.

31 (2) For the purposes of subsections (a) and (b), any ad valorem prop-  
32 erty tax levied on property located in a city in Johnson county for the  
33 purpose of providing fire protection service in such city shall be included  
34 within the term "total tangible property tax levies" for such city regardless  
35 of its applicability to all tangible property located within each such city.  
36 If the tax is levied by a district which extends across city boundaries, for  
37 purposes of this computation, the amount of such levy shall be appor-  
38 tioned among each city in which such district extends in the proportion  
39 that such tax levied within each city bears to the total tax levied by the  
40 district.

41 (d) (1) All revenue received from a countywide retailers' sales tax  
42 imposed pursuant to paragraphs (2), (3)(C), (6), (7), (8), (9), (12), (14),  
43 (15), (16), (17), (18), (19) or (20) of subsection (b) of K.S.A. 12-187, and

1 amendments thereto, shall be remitted to and shall be retained by the  
2 county and expended only for the purpose for which the revenue received  
3 from the tax was pledged.

4 (2) Except as otherwise provided in paragraph (5) of subsection (b)  
5 of K.S.A. 12-187, and amendments thereto, all revenues received from a  
6 countywide retailers' sales tax imposed pursuant to paragraph (5) of sub-  
7 section (b) of K.S.A. 12-187, and amendments thereto, shall be remitted  
8 to and shall be retained by the county and expended only for the purpose  
9 for which the revenue received from the tax was pledged.

10 (e) All revenue apportioned to the several cities of the county shall  
11 be paid to the respective treasurers thereof and deposited in the general  
12 fund of the city. Whenever the territory of any city is located in two or  
13 more counties and any one or more of such counties do not levy a coun-  
14 tywide retailers' sales tax, or whenever such counties do not levy coun-  
15 tywide retailers' sales taxes at a uniform rate, the revenue received by  
16 such city from the proceeds of the countywide retailers' sales tax, as an  
17 alternative to depositing the same in the general fund, may be used for  
18 the purpose of reducing the tax levies of such city upon the taxable tan-  
19 gible property located within the county levying such countywide retail-  
20 ers' sales tax.

21 (f) Prior to March 1 of each year, the secretary of revenue shall advise  
22 each county treasurer of the revenue collected in such county from the  
23 state retailers' sales tax for the preceding calendar year.

24 (g) Prior to December 31 of each year, the clerk of every county  
25 imposing a countywide retailers' sales tax shall provide such information  
26 deemed necessary by the secretary of revenue to apportion and remit  
27 revenue to the counties and cities pursuant to this section.

28 (h) The provisions of subsections (a) and (b) for the apportionment  
29 of countywide retailers' sales tax shall not apply to any revenues received  
30 pursuant to a county or countywide retailers' sales tax levied or collected  
31 under K.S.A. 74-8929, and amendments thereto. All such revenue col-  
32 lected under K.S.A. 74-8929, and amendments thereto, shall be deposited  
33 into the redevelopment bond fund established by K.S.A. 74-8927, and  
34 amendments thereto, for the period of time set forth in K.S.A. 74-8927,  
35 and amendments thereto.

36 Sec. 55. K.S.A. 2006 Supp. 19-101a, as amended by section 57 of  
37 2007 Senate Bill No. 66, is hereby amended to read as follows: 19-101a.

38 (a) The board of county commissioners may transact all county business  
39 and perform all powers of local legislation and administration it deems  
40 appropriate, subject only to the following limitations, restrictions or pro-  
41 hibitions:

42 (1) Counties shall be subject to all acts of the legislature which apply  
43 uniformly to all counties.



- 1       (2) Counties may not affect the courts located therein.
- 2       (3) Counties shall be subject to acts of the legislature prescribing  
3 limits of indebtedness.
- 4       (4) In the exercise of powers of local legislation and administration  
5 authorized under provisions of this section, the home rule power con-  
6 ferred on cities to determine their local affairs and government shall not  
7 be superseded or impaired without the consent of the governing body of  
8 each city within a county which may be affected.
- 9       (5) Counties may not legislate on social welfare administered under  
10 state law enacted pursuant to or in conformity with public law No. 271—  
11 74th congress, or amendments thereof.
- 12       (6) Counties shall be subject to all acts of the legislature concerning  
13 elections, election commissioners and officers and their duties as such  
14 officers and the election of county officers.
- 15       (7) Counties shall be subject to the limitations and prohibitions im-  
16 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
17 prescribing limitations upon the levy of retailers' sales taxes by counties.
- 18       (8) Counties may not exempt from or effect changes in statutes made  
19 nonuniform in application solely by reason of authorizing exceptions for  
20 counties having adopted a charter for county government.
- 21       (9) No county may levy ad valorem taxes under the authority of this  
22 section upon real property located within any redevelopment project area  
23 established under the authority of K.S.A. 12-1772, and amendments  
24 thereto, unless the resolution authorizing the same specifically authorized  
25 a portion of the proceeds of such levy to be used to pay the principal of  
26 and interest upon bonds issued by a city under the authority of K.S.A.  
27 12-1774, and amendments thereto.
- 28       (10) Counties shall have no power under this section to exempt from  
29 any statute authorizing or requiring the levy of taxes and providing sub-  
30 stitute and additional provisions on the same subject, unless the resolution  
31 authorizing the same specifically provides for a portion of the proceeds  
32 of such levy to be used to pay a portion of the principal and interest on  
33 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
34 ments thereto.
- 35       (11) Counties may not exempt from or effect changes in the provi-  
36 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 37       (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
38 through 12-1,109, and amendments thereto, counties may not levy and  
39 collect taxes on incomes from whatever source derived.
- 40       (13) Counties may not exempt from or effect changes in K.S.A. 19-  
41 430, and amendments thereto.
- 42       (14) Counties may not exempt from or effect changes in K.S.A. 19-  
43 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

- 1 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
2 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 3 (16) Counties may not exempt from or effect changes in the provi-  
4 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
5 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
6 through 12-1270 and 12-1276, and amendments thereto.
- 7 (17) Counties may not exempt from or effect changes in the provi-  
8 sions of K.S.A. 19-211, and amendments thereto.
- 9 (18) Counties may not exempt from or effect changes in the provi-  
10 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 11 (19) Counties may not regulate the production or drilling of any oil  
12 or gas well in any manner which would result in the duplication of reg-  
13 ulation by the state corporation commission and the Kansas department  
14 of health and environment pursuant to chapter 55 and chapter 65 of the  
15 Kansas Statutes Annotated, and amendments thereto, and any rules and  
16 regulations adopted pursuant thereto. Counties may not require any li-  
17 cense or permit for the drilling or production of oil and gas wells. Counties  
18 may not impose any fee or charge for the drilling or production of any  
19 oil or gas well.
- 20 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
21 41a04, and amendments thereto.
- 22 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
23 1611, and amendments thereto.
- 24 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
25 1494, and amendments thereto.
- 26 (23) Counties may not exempt from or effect changes in subsection  
27 (b) of K.S.A. 19-202, and amendments thereto.
- 28 (24) Counties may not exempt from or effect changes in subsection  
29 (b) of K.S.A. 19-204, and amendments thereto.
- 30 (25) Counties may not levy or impose an excise, severance or any  
31 other tax in the nature of an excise tax upon the physical severance and  
32 production of any mineral or other material from the earth or water.
- 33 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
34 2017 or 79-2101, and amendments thereto.
- 35 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
36 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
37 1,178 through 65-1,199, and amendments thereto.
- 38 (28) Counties may not exempt from or effect changes in K.S.A. 2006  
39 Supp. 80-121, and amendments thereto.
- 40 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
41 228, and amendments thereto.
- 42 (30) Counties may not exempt from or effect changes in the wireless  
43 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of

1 K.S.A. 12-5301 through 12-5308, and amendments thereto.

2 (31) Counties may not exempt from or effect changes in K.S.A. 2006  
3 Supp. 26-601, and amendments thereto.

4 (32) (A) Counties may not exempt from or effect changes in the Kan-  
5 sas liquor control act except as provided by paragraph (B).

6 (B) Counties may adopt resolutions which are not in conflict with the  
7 Kansas liquor control act.

8 (33) (A) Counties may not exempt from or effect changes in the Kan-  
9 sas cereal malt beverage act except as provided by paragraph (B).

10 (B) Counties may adopt resolutions which are not in conflict with the  
11 Kansas cereal malt beverage act.

12 (34) *Counties may neither exempt from nor effect changes to the em-*  
13 *inent domain procedure act.*

14 (35) Counties may not exempt from or effect changes in the Kansas  
15 lottery act.

16 ~~(35)~~ (36) Counties may not exempt from or effect changes in the  
17 Kansas expanded lottery act.

18 (37) *Any county granted authority pursuant to the provisions of sec-*  
19 *tions 1 through 5 of 2007 Senate Bill No. 115, and amendments thereto,*  
20 *shall be subject to the limitations and prohibitions imposed under sections*  
21 *1 through 5 of 2007 Senate Bill No. 115, and amendments thereto.*

22 (38) *Except as otherwise specifically authorized by sections 1 through*  
23 *5 of 2007 Senate Bill No. 115, and amendments thereto, counties may not*  
24 *exercise any authority granted pursuant to sections 1 through 5 of 2007*  
25 *Senate Bill No. 115, and amendments thereto, including the imposition*  
26 *or levy of any retailers' sales tax.*

27 (b) Counties shall apply the powers of local legislation granted in  
28 subsection (a) by resolution of the board of county commissioners. If no  
29 statutory authority exists for such local legislation other than that set forth  
30 in subsection (a) and the local legislation proposed under the authority  
31 of such subsection is not contrary to any act of the legislature, such local  
32 legislation shall become effective upon passage of a resolution of the  
33 board and publication in the official county newspaper. If the legislation  
34 proposed by the board under authority of subsection (a) is contrary to an  
35 act of the legislature which is applicable to the particular county but not  
36 uniformly applicable to all counties, such legislation shall become effec-  
37 tive by passage of a charter resolution in the manner provided in K.S.A.  
38 19-101b, and amendments thereto.

39 (c) Any resolution adopted by a county which conflicts with the re-  
40 strictions in subsection (a) is null and void.

41 Sec. 56. K.S.A. 2006 Supp. 79-32,117, as amended by section 21 of  
42 2007 House Bill No. 2038, is hereby amended to read as follows: 79-  
43 32,117. (a) The Kansas adjusted gross income of an individual means such

1 individual's federal adjusted gross income for the taxable year, with the  
2 modifications specified in this section.

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

4 (i) Interest income less any related expenses directly incurred in the  
5 purchase of state or political subdivision obligations, to the extent that  
6 the same is not included in federal adjusted gross income, on obligations  
7 of any state or political subdivision thereof, but to the extent that interest  
8 income on obligations of this state or a political subdivision thereof issued  
9 prior to January 1, 1988, is specifically exempt from income tax under the  
10 laws of this state authorizing the issuance of such obligations, it shall be  
11 excluded from computation of Kansas adjusted gross income whether or  
12 not included in federal adjusted gross income. Interest income on obli-  
13 gations of this state or a political subdivision thereof issued after Decem-  
14 ber 31, 1987, shall be excluded from computation of Kansas adjusted  
15 gross income whether or not included in federal adjusted gross income.

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

22 (iii) The federal net operating loss deduction.

23 (iv) Federal income tax refunds received by the taxpayer if the de-  
24 duction of the taxes being refunded resulted in a tax benefit for Kansas  
25 income tax purposes during a prior taxable year. Such refunds shall be  
26 included in income in the year actually received regardless of the method  
27 of accounting used by the taxpayer. For purposes hereof, a tax benefit  
28 shall be deemed to have resulted if the amount of the tax had been de-  
29 ducted in determining income subject to a Kansas income tax for a prior  
30 year regardless of the rate of taxation applied in such prior year to the  
31 Kansas taxable income, but only that portion of the refund shall be in-  
32 cluded as bears the same proportion to the total refund received as the  
33 federal taxes deducted in the year to which such refund is attributable  
34 bears to the total federal income taxes paid for such year. For purposes  
35 of the foregoing sentence, federal taxes shall be considered to have been  
36 deducted only to the extent such deduction does not reduce Kansas tax-  
37 able income below zero.

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

43 (vi) Any amount of designated employee contributions picked up by

1 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
2 and amendments to such sections.

3 (vii) The amount of any charitable contribution made to the extent  
4 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
5 79-32,196, and amendments thereto.

6 (viii) The amount of any costs incurred for improvements to a swine  
7 facility, claimed for deduction in determining federal adjusted gross in-  
8 come, to the extent the same is claimed as the basis for any credit allowed  
9 pursuant to K.S.A. 2006 Supp. 79-32,204 and amendments thereto.

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

16 (x) Amounts received as nonqualified withdrawals, as defined by  
17 K.S.A. 2006 Supp. 75-643, and amendments thereto, if, at the time of  
18 contribution to a family postsecondary education savings account, such  
19 amounts were subtracted from the federal adjusted gross income pur-  
20 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amend-  
21 ments thereto, or if such amounts are not already included in the federal  
22 adjusted gross income.

23 (xi) The amount of any contribution made to the same extent the  
24 same is claimed as the basis for the credit allowed pursuant to K.S.A.  
25 2006 Supp. 74-50,154, and amendments thereto.

26 (xii) For taxable years commencing after December 31, 2004,  
27 amounts received as withdrawals not in accordance with the provisions  
28 of K.S.A. 2006 Supp. 74-50,204, and amendments thereto, if, at the time  
29 of contribution to an individual development account, such amounts were  
30 subtracted from the federal adjusted gross income pursuant to paragraph  
31 (xiii) of subsection (c), or if such amounts are not already included in the  
32 federal adjusted gross income.

33 (xiii) The amount of any expenditures claimed for deduction in de-  
34 termining federal adjusted gross income, to the extent the same is claimed  
35 as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-  
36 32,217 through 79-32,220 or 79-32,222, and amendments thereto.

37 (xiv) The amount of any amortization deduction claimed in deter-  
38 mining federal adjusted gross income to the extent the same is claimed  
39 for deduction pursuant to K.S.A. 2006 Supp. 79-32,221, and amendments  
40 thereto.

41 (xv) The amount of any expenditures claimed for deduction in deter-  
42 mining federal adjusted gross income, to the extent the same is claimed  
43 as the basis for any credit allowed pursuant to K.S.A. 2006 Supp. 79-

1 32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233  
2 through 79-32,236, 79-32,238 through 79-32,241, sections 10 through 13  
3 of 2007 House Bill No. 2038 or sections 32 through 35 of 2007 House Bill  
4 No. 2038, and amendments thereto.

5 (xvi) The amount of any amortization deduction claimed in deter-  
6 mining federal adjusted gross income to the extent the same is claimed  
7 for deduction pursuant to K.S.A. 2006 Supp. 79-32,227, 79-32,232, 79-  
8 32,237, section 14, 18 or 36 of 2007 House Bill No. 2038, and amendments  
9 thereto.

10 (xvii) *The amount of any amortization deduction claimed in deter-*  
11 *mining federal adjusted gross income to the extent the same is claimed for*  
12 *deduction pursuant to section 7 of 2007 House Bill No. 2419, and amend-*  
13 *ments thereto.*

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

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

21 (ii) Any amounts received which are included in federal adjusted  
22 gross income but which are specifically exempt from Kansas income tax-  
23 ation under the laws of the state of Kansas.

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

32 (iv) The amount necessary to prevent the taxation under this act of  
33 any annuity or other amount of income or gain which was properly in-  
34 cluded in income or gain and was taxed under the laws of this state for a  
35 taxable year prior to the effective date of this act, as amended, to the  
36 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
37 the right to receive the income or gain, or to a trust or estate from which  
38 the taxpayer received the income or gain.

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

43 (vi) Accumulation distributions received by a taxpayer as a beneficiary

1 of a trust to the extent that the same are included in federal adjusted  
2 gross income.

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

8 (viii) Amounts received by retired railroad employees as a supple-  
9 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
10 et seq.

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

16 (x) For taxable years beginning after December 31, 1976, the amount  
17 of the federal tentative jobs tax credit disallowance under the provisions  
18 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,  
19 the amount of the targeted jobs tax credit and work incentive credit dis-  
20 allowances under 26 U.S.C. 280 C.

21 (xi) For taxable years beginning after December 31, 1986, dividend  
22 income on stock issued by Kansas Venture Capital, Inc.

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

27 (xiii) For taxable years beginning after December 31, 2004, amounts  
28 contributed to and the amount of income earned on contributions de-  
29 posited to an individual development account under K.S.A. 2006 Supp.  
30 74-50,201, et seq., and amendments thereto.

31 (xiv) For all taxable years commencing after December 31, 1996, that  
32 portion of any income of a bank organized under the laws of this state or  
33 any other state, a national banking association organized under the laws  
34 of the United States, an association organized under the savings and loan  
35 code of this state or any other state, or a federal savings association or-  
36 ganized under the laws of the United States, for which an election as an  
37 S corporation under subchapter S of the federal internal revenue code is  
38 in effect, which accrues to the taxpayer who is a stockholder of such  
39 corporation and which is not distributed to the stockholders as dividends  
40 of the corporation.

41 ~~(xv) For all taxable years beginning after December 31, 1999,~~  
42 ~~amounts not exceeding \$3,000 or \$6,000 for a married couple filing a joint~~  
43 ~~return, for each designated beneficiary which are contributed to a family~~

1 ~~postsecondary education savings account established under the Kansas~~  
2 ~~postsecondary education savings program for the purpose of paying the~~  
3 ~~qualified higher education expenses of a designated beneficiary at an in-~~  
4 ~~stitution of postsecondary education.~~ For all taxable years beginning after  
5 December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a mar-  
6 ried couple filing a joint return, for each designated beneficiary which are  
7 contributed to a *family postsecondary education savings account estab-*  
8 *lished under the Kansas postsecondary education savings program or a*  
9 *qualified tuition program established and maintained by another state or*  
10 *agency or instrumentality thereof pursuant to section 529 of the internal*  
11 *revenue code of 1986, as amended, for the purpose of paying the qualified*  
12 *higher education expenses of a designated beneficiary at an institution of*  
13 *postsecondary education. The terms and phrases used in this paragraph*  
14 *shall have the meaning respectively ascribed thereto by the provisions of*  
15 *K.S.A. 2006 Supp. 75-643, and amendments thereto, and the provisions*  
16 *of such section are hereby incorporated by reference for all purposes*  
17 *thereof.*

18 (xvi) For the tax year beginning after December 31, 2004, an amount  
19 not exceeding \$500; for the tax year beginning after December 31, 2005,  
20 an amount not exceeding \$600; for the tax year beginning after December  
21 31, 2006, an amount not exceeding \$700; for the tax year beginning after  
22 December 31, 2007, an amount not exceeding \$800; for the tax year  
23 beginning December 31, 2008, an amount not exceeding \$900; and for  
24 all taxable years commencing after December 31, 2009, an amount not  
25 exceeding \$1,000 of the premium costs for qualified long-term care in-  
26 surance contracts, as defined by subsection (b) of section 7702B of public  
27 law 104-191.

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

38 (xviii) For all taxable years beginning after December 31, 2004,  
39 amounts received by taxpayers who are eligible members of the Kansas  
40 army and air national guard as a reimbursement pursuant to K.S.A. 48-  
41 281, and amendments thereto, and amounts received for death benefits  
42 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-  
43 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and



1 amendments thereto, to the extent that such death benefits are included  
2 in federal adjusted gross income of the taxpayer.

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

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

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

23 Sec. 57. K.S.A. 2006 Supp. 79-32,120, as amended by section 22 of  
24 2007 House Bill No. 2038, is hereby amended to read as follows: 79-  
25 32,120. (a) If federal taxable income of an individual is determined by  
26 itemizing deductions from such individual's federal adjusted gross in-  
27 come, such individual may elect to deduct the Kansas itemized deduction  
28 in lieu of the Kansas standard deduction. The Kansas itemized deduction  
29 of an individual means the total amount of deductions from federal ad-  
30 justed gross income, other than federal deductions for personal exemp-  
31 tions, as provided in the federal internal revenue code with the modifi-  
32 cations specified in this section.

33 (b) The total amount of deductions from federal adjusted gross in-  
34 come shall be reduced by the total amount of income taxes imposed by  
35 or paid to this state or any other taxing jurisdiction to the extent that the  
36 same are deducted in determining the federal itemized deductions and  
37 by the amount of all depreciation deductions claimed for any real or  
38 tangible personal property upon which the deduction allowed by K.S.A.  
39 2006 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, *section 7 of 2007*  
40 *House Bill No. 2419*, section 14, 18 or 36 *of 2007 House Bill No. 2038*,  
41 and amendments thereto, is or has been claimed.

42 Sec. 58. K.S.A. 2006 Supp. 79-32,138, as amended by section 23 of  
43 2007 House Bill No. 2038, is hereby amended to read as follows: 79-

- 1 32,138. (a) Kansas taxable income of a corporation taxable under this act  
2 shall be the corporation's federal taxable income for the taxable year with  
3 the modifications specified in this section.
- 4 (b) There shall be added to federal taxable income: (i) The same  
5 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and  
6 amendments thereto, with respect to resident individuals.
- 7 (ii) The amount of all depreciation deductions claimed for any prop-  
8 erty upon which the deduction allowed by K.S.A. 2006 Supp. 79-32,221,  
9 79-32,227, 79-32,232, 79-32,237, *section 7 of 2007 House Bill No. 2419*,  
10 *section 14, 18 or 36 of 2007 House Bill No. 2038*, and amendments  
11 thereto, is claimed.
- 12 (iii) The amount of any charitable contribution deduction claimed for  
13 any contribution or gift to or for the use of any racially segregated edu-  
14 cational institution.
- 15 (c) There shall be subtracted from federal taxable income: (i) The  
16 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,  
17 and amendments thereto, with respect to resident individuals.
- 18 (ii) The federal income tax liability for any taxable year commencing  
19 prior to December 31, 1971, for which a Kansas return was filed after  
20 reduction for all credits thereon, except credits for payments on estimates  
21 of federal income tax, credits for gasoline and lubricating oil tax, and for  
22 foreign tax credits if, on the Kansas income tax return for such prior year,  
23 the federal income tax deduction was computed on the basis of the federal  
24 income tax paid in such prior year, rather than as accrued. Notwithstand-  
25 ing the foregoing, the deduction for federal income tax liability for any  
26 year shall not exceed that portion of the total federal income tax liability  
27 for such year which bears the same ratio to the total federal income tax  
28 liability for such year as the Kansas taxable income, as computed before  
29 any deductions for federal income taxes and after application of subsec-  
30 tions (d) and (e) of this section as existing for such year, bears to the  
31 federal taxable income for the same year.
- 32 (iii) An amount for the amortization deduction allowed pursuant to  
33 K.S.A. 2006 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, *section 7*  
34 *of 2007 House Bill No. 2419*, *section 14, 18 or 36 of 2007 House Bill No.*  
35 *2038*, and amendments thereto.
- 36 (iv) For all taxable years commencing after December 31, 1987, the  
37 amount included in federal taxable income pursuant to the provisions of  
38 section 78 of the internal revenue code.
- 39 (v) For all taxable years commencing after December 31, 1987, 80%  
40 of dividends from corporations incorporated outside of the United States  
41 or the District of Columbia which are included in federal taxable income.
- 42 (d) If any corporation derives all of its income from sources within  
43 Kansas in any taxable year commencing after December 31, 1979, its

1 Kansas taxable income shall be the sum resulting after application of  
2 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas  
3 taxable income in any such taxable year, after excluding any refunds of  
4 federal income tax and before the deduction of federal income taxes pro-  
5 vided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271  
6 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund  
7 of federal income tax as determined under paragraph (iv) of subsection  
8 (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduc-  
9 tion for federal income taxes as provided by subsection (c)(ii) shall be  
10 such corporation's Kansas taxable income.

11 (e) A corporation may make an election with respect to its first taxable  
12 year commencing after December 31, 1982, whereby no addition modi-  
13 fications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and  
14 subtraction modifications as provided for in subsection (c)(iii) of K.S.A.  
15 79-32,138, as those subsections existed prior to their amendment by this  
16 act, shall be required to be made for such taxable year.

17 Sec. 59. K.S.A. 2006 Supp. 79-3603, as amended by section 4 of 2007  
18 House Bill No. 2171, is hereby amended to read as follows: 79-3603. For  
19 the privilege of engaging in the business of selling tangible personal prop-  
20 erty at retail in this state or rendering or furnishing any of the services  
21 taxable under this act, there is hereby levied and there shall be collected  
22 and paid a tax at the rate of 5.3%. Within a redevelopment district estab-  
23 lished pursuant to K.S.A. 74-8921, and amendments thereto, there is  
24 hereby levied and there shall be collected and paid an additional tax at  
25 the rate of 2% until the earlier of the date the bonds issued to finance or  
26 refinance the redevelopment project have been paid in full or the final  
27 scheduled maturity of the first series of bonds issued to finance any part  
28 of the project upon:

29 (a) The gross receipts received from the sale of tangible personal  
30 property at retail within this state;

31 (b) the gross receipts from intrastate, interstate or international tel-  
32 ecommunications services and any ancillary services sourced to this state  
33 in accordance with K.S.A. 2006 Supp. 79-3673, and amendments thereto,  
34 except that telecommunications service does not include: (1) Any inter-  
35 state or international 800 or 900 service; (2) any interstate or international  
36 private communications service as defined in K.S.A. 2006 Supp. 79-3673,  
37 and amendments thereto; (3) any value-added nonvoice data service; (4)  
38 any telecommunication service to a provider of telecommunication serv-  
39 ices which will be used to render telecommunications services, including  
40 carrier access services; or (5) any service or transaction defined in this  
41 section among entities classified as members of an affiliated group as  
42 provided by section 1504 of the federal internal revenue code of 1986, as  
43 in effect on January 1, 2001;

- 1 (c) the gross receipts from the sale or furnishing of gas, water, elec-  
2 tricity and heat, which sale is not otherwise exempt from taxation under  
3 the provisions of this act, and whether furnished by municipally or pri-  
4 vately owned utilities, except that, on and after January 1, 2006, for sales  
5 of gas, electricity and heat delivered through mains, lines or pipes to  
6 residential premises for noncommercial use by the occupant of such  
7 premises, and for agricultural use and also, for such use, all sales of pro-  
8 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP  
9 gas, coal, wood and other fuel sources for the production of heat or light-  
10 ing for noncommercial use of an occupant of residential premises, the  
11 state rate shall be 0%, but such tax shall not be levied and collected upon  
12 the gross receipts from: (1) The sale of a rural water district benefit unit;  
13 (2) a water system impact fee, system enhancement fee or similar fee  
14 collected by a water supplier as a condition for establishing service; or (3)  
15 connection or reconnection fees collected by a water supplier;
- 16 (d) the gross receipts from the sale of meals or drinks furnished at  
17 any private club, drinking establishment, catered event, restaurant, eating  
18 house, dining car, hotel, drugstore or other place where meals or drinks  
19 are regularly sold to the public;
- 20 (e) the gross receipts from the sale of admissions to any place pro-  
21 viding amusement, entertainment or recreation services including admis-  
22 sions to state, county, district and local fairs, but such tax shall not be  
23 levied and collected upon the gross receipts received from sales of ad-  
24 missions to any cultural and historical event which occurs triennially;
- 25 (f) the gross receipts from the operation of any coin-operated device  
26 dispensing or providing tangible personal property, amusement or other  
27 services except laundry services, whether automatic or manually operated;
- 28 (g) the gross receipts from the service of renting of rooms by hotels,  
29 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-  
30 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto  
31 but such tax shall not be levied and collected upon the gross receipts  
32 received from sales of such service to the federal government and any  
33 agency, officer or employee thereof in association with the performance  
34 of official government duties;
- 35 (h) the gross receipts from the service of renting or leasing of tangible  
36 personal property except such tax shall not apply to the renting or leasing  
37 of machinery, equipment or other personal property owned by a city and  
38 purchased from the proceeds of industrial revenue bonds issued prior to  
39 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through  
40 12-1749, and amendments thereto, and any city or lessee renting or leas-  
41 ing such machinery, equipment or other personal property purchased  
42 with the proceeds of such bonds who shall have paid a tax under the  
43 provisions of this section upon sales made prior to July 1, 1973, shall be

1 entitled to a refund from the sales tax refund fund of all taxes paid  
2 thereon;

3 (i) the gross receipts from the rendering of dry cleaning, pressing,  
4 dyeing and laundry services except laundry services rendered through a  
5 coin-operated device whether automatic or manually operated;

6 (j) the gross receipts from the rendering of the services of washing  
7 and washing and waxing of vehicles;

8 (k) the gross receipts from cable, community antennae and other sub-  
9 scriber radio and television services;

10 (l) (1) except as otherwise provided by paragraph (2), the gross re-  
11 cepts received from the sales of tangible personal property to all con-  
12 tractors, subcontractors or repairmen for use by them in erecting struc-  
13 tures, or building on, or otherwise improving, altering, or repairing real  
14 or personal property.

15 (2) Any such contractor, subcontractor or repairman who maintains  
16 an inventory of such property both for sale at retail and for use by them  
17 for the purposes described by paragraph (1) shall be deemed a retailer  
18 with respect to purchases for and sales from such inventory, except that  
19 the gross receipts received from any such sale, other than a sale at retail,  
20 shall be equal to the total purchase price paid for such property and the  
21 tax imposed thereon shall be paid by the deemed retailer;

22 (m) the gross receipts received from fees and charges by public and  
23 private clubs, drinking establishments, organizations and businesses for  
24 participation in sports, games and other recreational activities, but such  
25 tax shall not be levied and collected upon the gross receipts received from:

26 (1) Fees and charges by any political subdivision, by any organization  
27 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-  
28 201, and amendments thereto, or by any youth recreation organization  
29 exclusively providing services to persons 18 years of age or younger which  
30 is exempt from federal income taxation pursuant to section 501(c)(3) of  
31 the federal internal revenue code of 1986, for participation in sports,  
32 games and other recreational activities; and (2) entry fees and charges for  
33 participation in a special event or tournament sanctioned by a national  
34 sporting association to which spectators are charged an admission which  
35 is taxable pursuant to subsection (e);

36 (n) the gross receipts received from dues charged by public and pri-  
37 vate clubs, drinking establishments, organizations and businesses, pay-  
38 ment of which entitles a member to the use of facilities for recreation or  
39 entertainment, but such tax shall not be levied and collected upon the  
40 gross receipts received from: (1) Dues charged by any organization ex-  
41 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of  
42 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships  
43 in a nonprofit organization which is exempt from federal income taxation

1 pursuant to section 501 (c)(3) of the federal internal revenue code of  
2 1986, and whose purpose is to support the operation of a nonprofit zoo;  
3 (o) the gross receipts received from the isolated or occasional sale of  
4 motor vehicles or trailers but not including: (1) The transfer of motor  
5 vehicles or trailers by a person to a corporation or limited liability com-  
6 pany solely in exchange for stock securities or membership interest in  
7 such corporation or limited liability company; or (2) the transfer of motor  
8 vehicles or trailers by one corporation or limited liability company to  
9 another when all of the assets of such corporation or limited liability  
10 company are transferred to such other corporation or limited liability  
11 company; or (3) the sale of motor vehicles or trailers which are subject  
12 to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and  
13 amendments thereto, by an immediate family member to another im-  
14 mediate family member. For the purposes of clause (3), immediate family  
15 member means lineal ascendants or descendants, and their spouses. Any  
16 amount of sales tax paid pursuant to the Kansas retailers sales tax act on  
17 the isolated or occasional sale of motor vehicles or trailers on and after  
18 July 1, 2004, which the base for computing the tax was the value pursuant  
19 to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments  
20 thereto, when such amount was higher than the amount of sales tax which  
21 would have been paid under the law as it existed on June 30, 2004, shall  
22 be refunded to the taxpayer pursuant to the procedure prescribed by this  
23 section. Such refund shall be in an amount equal to the difference be-  
24 tween the amount of sales tax paid by the taxpayer and the amount of  
25 sales tax which would have been paid by the taxpayer under the law as it  
26 existed on June 30, 2004. Each claim for a sales tax refund shall be verified  
27 and submitted not later than six months from the effective date of this  
28 act to the director of taxation upon forms furnished by the director and  
29 shall be accompanied by any additional documentation required by the  
30 director. The director shall review each claim and shall refund that  
31 amount of tax paid as provided by this act. All such refunds shall be paid  
32 from the sales tax refund fund, upon warrants of the director of accounts  
33 and reports pursuant to vouchers approved by the director of taxation or  
34 the director's designee. No refund for an amount less than \$10 shall be  
35 paid pursuant to this act. In determining the base for computing the tax  
36 on such isolated or occasional sale, the fair market value of any motor  
37 vehicle or trailer traded in by the purchaser to the seller may be deducted  
38 from the selling price;

39 (p) the gross receipts received for the service of installing or applying  
40 tangible personal property which when installed or applied is not being  
41 held for sale in the regular course of business, and whether or not such  
42 tangible personal property when installed or applied remains tangible  
43 personal property or becomes a part of real estate, except that no tax shall

1 be imposed upon the service of installing or applying tangible personal  
2 property in connection with the original construction of a building or  
3 facility, the original construction, reconstruction, restoration, remodeling,  
4 renovation, repair or replacement of a residence or the construction, re-  
5 construction, restoration, replacement or repair of a bridge or highway.

6 For the purposes of this subsection:

7 (1) "Original construction" shall mean the first or initial construction  
8 of a new building or facility. The term "original construction" shall include  
9 the addition of an entire room or floor to any existing building or facility,  
10 the completion of any unfinished portion of any existing building or fa-  
11 cility and the restoration, reconstruction or replacement of a building ~~or~~  
12 facility *or utility structure* damaged or destroyed by fire, flood, tornado,  
13 lightning, explosion, *windstorm, ice loading and attendant winds, terror-*  
14 *ism* or earthquake, but such term, except with regard to a residence, shall  
15 not include replacement, remodeling, restoration, renovation or recon-  
16 struction under any other circumstances;

17 (2) "building" shall mean only those enclosures within which individ-  
18 uals customarily are employed, or which are customarily used to house  
19 machinery, equipment or other property, and including the land improve-  
20 ments immediately surrounding such building;

21 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water  
22 well, feedlot or any conveyance, transmission or distribution line of any  
23 cooperative, nonprofit, membership corporation organized under or sub-  
24 ject to the provisions of K.S.A. 17-4601 et seq., and amendments thereto,  
25 or ~~of any~~ municipal or quasi-municipal corporation, including the land  
26 improvements immediately surrounding such facility; ~~and~~

27 (4) "residence" shall mean only those enclosures within which indi-  
28 viduals customarily live;

29 (5) "*utility structure*" shall mean *transmission and distribution lines*  
30 *owned by an independent transmission company or cooperative, the Kan-*  
31 *sas electric transmission authority or natural gas or electric public utility;*  
32 *and*

33 (6) "*windstorm*" shall mean *straight line winds of at least 80 miles*  
34 *per hour as determined by a recognized meteorological reporting agency*  
35 *or organization;*

36 (q) the gross receipts received for the service of repairing, servicing,  
37 altering or maintaining tangible personal property which when such serv-  
38 ices are rendered is not being held for sale in the regular course of busi-  
39 ness, and whether or not any tangible personal property is transferred in  
40 connection therewith. The tax imposed by this subsection shall be appli-  
41 cable to the services of repairing, servicing, altering or maintaining an  
42 item of tangible personal property which has been and is fastened to,  
43 connected with or built into real property;

- 1 (r) the gross receipts from fees or charges made under service or  
2 maintenance agreement contracts for services, charges for the providing  
3 of which are taxable under the provisions of subsection (p) or (q);
- 4 (s) on and after January 1, 2005, the gross receipts received from the  
5 sale of prewritten computer software and the sale of the services of mod-  
6 ifying, altering, updating or maintaining prewritten computer software,  
7 whether the prewritten computer software is installed or delivered elec-  
8 tronically by tangible storage media physically transferred to the pur-  
9 chaser or by load and leave;
- 10 (t) the gross receipts received for telephone answering services;
- 11 (u) the gross receipts received from the sale of prepaid calling service  
12 and prepaid wireless calling service as defined in K.S.A. 2006 Supp. 79-  
13 3673, and amendments thereto; and
- 14 (v) the gross receipts received from the sales of bingo cards, bingo  
15 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,  
16 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,  
17 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before  
18 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo  
19 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,  
20 and amendments thereto, shall be exempt from taxes imposed pursuant  
21 to this section.
- 22 Sec. 60. Sections 11 and 13 of 2007 Substitute for Senate Bill No.  
23 354 and K.S.A. 8-234a, as amended by section 3 of 2007 Senate Bill No.  
24 9, 8-234a, as amended by section 2 of 2007 Substitute for House Bill No.  
25 2042, 38-16,130 and 59-104, as amended by section 18 of chapter 210 of  
26 the 2006 Session Laws of Kansas, and K.S.A. 2005 Supp. 12-1773, as  
27 amended by section 3 of chapter 192 of the 2006 Session Laws of Kansas,  
28 and K.S.A. 2006 Supp. 8-243, as amended by section 5 of 2007 Senate  
29 Bill No. 9, 8-243, as amended by section 25 of House Bill No. 2010, 8-  
30 247, as amended by section 3 of 2007 Substitute for House Bill No. 2042,  
31 8-247, as amended by section 26 of 2007 House Bill No. 2010, 8-247, as  
32 amended by section 7 of 2007 Senate Bill No. 9, 8-1325, as amended by  
33 section 11 of 2007 Senate Bill No. 9, 8-1325, as amended by section 27  
34 of 2007 House Bill No. 2010, 8-2117, 8-2117a, 12-187, as amended by  
35 section 6 of 2007 Senate Bill No. 115, 12-187, as amended by section 1  
36 of 2007 Senate Bill No. 112, 12-189, as amended by section 7 of 2007  
37 Senate Bill No. 115, 12-189, as amended by section 2 of 2007 Senate Bill  
38 No. 112, 12-192, as amended by section 8 of 2007 Senate Bill No. 115,  
39 12-192, as amended by section 3 of 2007 Senate Bill No. 112, 12-1773,  
40 19-101a, as amended by section 57 of 2007 Senate Bill No. 66, 19-101a,  
41 as amended by section 9 of 2007 Senate Bill No. 115, 19-101d, as  
42 amended by section 4 of 2007 House Bill No. 2058, 19-101d, as amended  
43 by section 1 of 2007 House Bill No. 2161, 20-302b, 20-302e, 21-3413,



1 21-3413a, 21-3612, 21-3612a 21-4714, 21-4714a 22-2401a, as amended  
2 by section 1 of 2007 Senate Bill No. 13, 22-2401a, as amended by section  
3 3 of 2007 House Bill No. 2068, 28-170, 28-170a, 28-170c, 28-170d, 28-  
4 170e, 28-172a, 28-172b, 28-172e, 28-172f, 38-140, 38-140a, 39-709, 39-  
5 709d, 39-754, 39-754a, 39-756, 39-756a, 39-756b, 39-756c, 39-7,121d, 39-  
6 7,121f, 39-1305, 39-1305a, 41-727, 41-727a, 44-703, as amended by  
7 section 1 of 2007 Senate Bill No. 83, 44-703, as amended by section 1 of  
8 2007 Senate Bill No. 235, 45-229, 45-229a, 59-104, 59-104a, 60-460, 60-  
9 460a, 60-2001, 60-2001a, 60-4104a, 61-2704, 61-2704a, 61-4001, 61-  
10 4001a, 65-1626, 65-1626c, 72-6434, 72-6434a, 72-8814, 72-8814a, 74-  
11 2012, as amended by section 14 of 2007 Senate Bill No. 9, 74-2012, as  
12 amended by section 1 of 2007 House Bill No. 2374, 74-4902, 74-4902a,  
13 74-5602, as amended by section 15 of 2007 Senate Bill No. 9, 74-5602,  
14 as amended by section 2 of 2007 House Bill No. 2068, 74-7336, as  
15 amended by section 17 of 2007 Senate Bill No. 8, 74-7336, as amended  
16 by section 16 of 2007 Substitute for Senate Bill No. 354, 75-2319, 75-  
17 2319a, 75-2319b, 75-5220, 75-5220a, 75-7023, 75-7023a, 75-7025, 75-  
18 7025a, 75-7413, 75-7413a, 75-7414, 75-7414a, 79-32,117, as amended by  
19 section 3 of 2007 House Bill No. 2031, 79-32,117, as amended by section  
20 21 of 2007 House Bill No. 2038, 79-32,120, as amended by section 9 of  
21 2007 House Bill No. 2419, 79-32,120, as amended by section 22 of 2007  
22 House Bill No. 2038, 79-32,138, as amended by section 10 of 2007 House  
23 Bill No. 2419, 79-32,138, as amended by section 23 of 2007 House Bill  
24 No. 2038, 79-3603, as amended by section 4 of 2007 House Bill No. 2171,  
25 and 79-3603, as amended by section 1 of 2007 House Bill No. 2240, are  
26 hereby repealed.

27 Sec. 61. On and after July 1, 2008, K.S.A. 84-4-104, as amended by  
28 section 42 of 2007 Senate Bill No. 183 and 84-4-104, as amended by  
29 section 62 of 2007 Senate Bill No. 308 and K.S.A. 2006 Supp. 16-1616,  
30 as amended by section 27 of 2007 Senate Bill No. 183, 16-1616, as  
31 amended by section 44 of 2007 Senate Bill No. 308, 84-1-201, as amended  
32 by section 9 of 2007 Senate Bill No. 183, 84-1-201, as amended by section  
33 47 of 2007 Senate Bill No. 308, 84-2-103, as amended by section 33 of  
34 2007 Senate Bill No. 183, 84-2-103, as amended by section 48 of 2007  
35 Senate Bill No. 308, 84-2a-103, as amended by section 35 of Senate Bill  
36 No. 183, 84-2a-103, as amended by section 59 of 2007 Senate Bill No.  
37 308, 84-9-102, as amended by section 48 of 2007 Senate Bill No. 183 and  
38 84-9-102, as amended by section 65 of 2007 Senate Bill No. 308, are  
39 hereby repealed.

40 Sec. 62. This act shall take effect and be in force from and after its  
41 publication in the statute book.