

SENATE Substitute for HOUSE BILL No. 2827

By Committee on Commerce

4-2

10 AN ACT concerning tourism; creating the Kansas tourism corporation and
11 providing for the powers and duties thereof; transferring the powers and
12 duties of the division of travel and tourism development to the Kansas
13 tourism corporation; providing for tourism development and funding;
14 amending K.S.A. 73-2103 and K.S.A. 2007 Supp. 73-2402, 73-2404, 74-
15 5005 and 79-3620 and repealing the existing sections; also repealing
16 K.S.A. 74-5032, 74-5032a and 74-5090 and K.S.A. 2007 Supp. 74-5089,
17 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005.

18
19 *Be it enacted by the Legislature of the State of Kansas:*

20 New Section 1. Sections 1 through 28, inclusive, and amendments
21 thereto, shall be known and may be cited as the Kansas tourism corporation
22 act.

23 New Sec. 2. The purpose of the Kansas tourism corporation is to pro-
24 vide for a collaboration of public and private organizations responsible for
25 influencing tourism spending and growing the Kansas economy by enhanc-
26 ing the visitor experience through targeted marketing, product develop-
27 ment, professional development and research.

28 New Sec. 3. As used in sections 1 through 28, and amendments
29 thereto, the following words and phrases shall have the following meanings
30 unless a different meaning clearly appears from the context:

31 (a) "Base year taxation" means all of the 2007 state sales taxes imposed
32 by K.S.A. 79-3603, and amendments thereto, collected from tourism com-
33 panies doing business in the state.

34 (b) "Board" means the board of directors of the corporation created by
35 section 4, and amendments thereto.

36 (c) "Corporation" means the Kansas tourism corporation.

37 (d) "NAICS" means the North American industry classification system.

38 (e) "President" means the chief executive officer of the corporation
39 appointed pursuant to section 4, and amendments thereto.

40 (f) "Taxpayer" means a person, corporation, limited liability company,
41 S corporation, partnership, registered limited liability partnership, founda-
42 tion, association, nonprofit entity, sole proprietorship, business trust, group
43 or other entity that is subject to the Kansas income tax act K.S.A. 79-3201

1 et seq., and amendments thereto.

2 (g) “Tourism” means a stay of one or more nights away from home for
3 holidays, visits to friends or relatives, business conferences or any other
4 purposes other than boarding, education or semi-permanent employment,
5 and the provision of goods related thereto.

6 (h) “Tourism company” means a corporation, limited liability company,
7 S corporation, partnership, registered limited liability partnership, founda-
8 tion, association, nonprofit entity, sole proprietorship, business trust, person,
9 group or other entity that is engaged in the business of tourism in the state
10 and has business operations in the state, including, without limitation, re-
11 search, development or production directed towards developing or provid-
12 ing tourism products or services for specific commercial or public purposes
13 and are identified by the following NAICS codes: 71111, 71113, 71119,
14 71121, 71131, 71132, 71151, 71211, 71212, 71213, 71311, 71312, 71329,
15 71393, 71394, 71395, 71399, 72111, 72112, 72119, 72121, 72131, 72211,
16 72221, 72231, 72232, 72233 and 72241.

17 (i) “Travel and tourism development fund” means the fund created by
18 section 15, and amendments thereto.

19 New Sec. 4. (a) There is hereby established a body politic and corpo-
20 rate, with corporate succession, to be known as the Kansas tourism corpo-
21 ration. The corporation is hereby constituted a public instrumentality and
22 the exercise by the corporation of the rights, powers and privileges conferred
23 by this act in the promotion and development of travel and tourism in the
24 state shall be deemed and held to be the performance of an essential gov-
25 ernmental function.

26 (b) The corporation shall be governed by a board of 13 directors. The
27 board of directors shall consist of: (1) Three members appointed by the
28 governor, each of whom shall be recognized for outstanding knowledge and
29 leadership in the fields of tourism, tourism marketing and tourism market
30 research; (2) two members appointed by the speaker of the house of rep-
31 resentatives, at least one of whom shall be a current member of the house
32 of representatives; (3) two members appointed by the president of the sen-
33 ate, at least one of whom shall be a current member of the senate; (4) one
34 member appointed by the minority leader of the house of representatives;
35 (5) one member appointed by the minority leader of the senate; and (6)
36 four members appointed by the travel industry association of Kansas. All
37 members of the board shall be subject to senate confirmation as provided
38 in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A.
39 46-2601, and amendments thereto, no person shall exercise any power, duty
40 or function as a member of the board until confirmed by the senate. Any
41 member of the board whose nomination is subject to confirmation during
42 a regular session of the legislature shall be deemed terminated when the
43 senate rejects the nomination. No such termination shall affect the validity

1 of any action taken by such member of the board before such termination.

2 (c) Of the members who will be appointed to the corporation's first
3 board, the members appointed by the governor shall be appointed for a
4 term of four years, the members appointed by the speaker of the house of
5 representatives and the president of the senate shall be appointed for a term
6 of three years, the members appointed by the minority leader of the house
7 of representatives and the minority leader of the senate shall be appointed
8 for a term of two years and the members appointed by the travel industry
9 association of Kansas shall be appointed for a term of one year. Members
10 of the first board shall be appointed by October 1, 2008.

11 (d) After the expiration of the terms of the corporation's first board, or
12 whenever a vacancy occurs or is announced regarding a member or mem-
13 bers of the board, such member or members shall be appointed as described
14 in subsection (b), except that such members shall be appointed for terms
15 of four years each. In the event of a vacancy the appointment shall be for
16 the remainder of the unexpired portion of the term. Each member of the
17 board shall hold office for the term of appointment and until a successor
18 has been confirmed. Any member of the board is eligible for reappointment,
19 but members of the board shall not be eligible to serve more than three
20 consecutive four-year terms.

21 (e) The board annually shall elect a member as chairperson and at least
22 one other as vice-chairperson. The board also shall elect a secretary and
23 treasurer for terms to be determined by the board. The board may elect
24 the same person to serve as both secretary and treasurer. The board shall
25 establish an executive committee, nominating committee and other standing
26 or special committees, and prescribe their duties and powers. Any executive
27 committee of the board shall be composed of the chairperson, the vice-
28 chairperson, the secretary and two additional members of the board to be
29 chosen by the chairperson from the remaining directors. The executive com-
30 mittee, in intervals between meetings of the board, may transact any busi-
31 ness of the board that has been delegated to the executive committee.

32 (f) Members of the board attending board meetings or subcommittee
33 meetings authorized by the board, shall be paid mileage and all other ap-
34 plicable expenses by the corporation, provided such expenses are consistent
35 with policies established from time-to-time by the board.

36 (g) No part of the funds of the corporation shall inure to the benefit of,
37 or be distributed to, its employees, officers or members of the board, except
38 that the corporation may make reasonable payments for expenses incurred
39 on its behalf relating to any of its lawful purposes and the corporation shall
40 be authorized and empowered to pay reasonable compensation for services
41 rendered to or for its benefit relating to any of its lawful purposes, including
42 to pay its employees reasonable compensation.

43 (h) Any member of the board may only be removed by an affirmative

1 vote by nine members of the board for malfeasance or misfeasance in office
2 or other just cause, including, but not limited to, regularly failing to attend
3 meetings or for any cause which renders the member incapable of or unfit
4 to discharge the duties of director.

5 (i) The board shall meet at least four times per year and at such other
6 times as it deems appropriate, or upon call by the president or the chair-
7 person, or upon written request of a majority of the directors of the board.
8 The board may adopt, repeal and amend such rules, procedures and bylaws,
9 not contrary to law or inconsistent with this act, as it deems expedient for
10 its own governance and for the governance and management of the cor-
11 poration. A majority of the total membership of the board shall constitute
12 a quorum for meetings. The board may act by a majority of those at any
13 meeting where a quorum is present. The board shall meet for the initial
14 meeting upon call by the member of the board first appointed by the travel
15 industry association of Kansas and confirmed by the senate, who shall act
16 as temporary chairperson until officers of the board are elected pursuant to
17 subsection (e).

18 (j) The board shall appoint a president who shall serve at the pleasure
19 of the board. The president shall serve as the chief executive officer of the
20 corporation. The president's salary shall be set by the board. The board may
21 negotiate and enter into an employment agreement with the individual se-
22 lected as president of the corporation, which may provide for compensation
23 allowances, benefits and expenses as may be included in such agreement.
24 The president shall direct and supervise administrative affairs and the gen-
25 eral management of the corporation.

26 (k) The corporation shall continue until terminated by law, except that
27 no such law shall take effect so long as the corporation has debts or obli-
28 gations outstanding, unless adequate provision has been made for the pay-
29 ment or retirement of such debts or obligations. Upon any such dissolution
30 of the corporation, all property, funds and assets thereof shall be vested in
31 the state, or other public institution as designated by the board and approved
32 by act of the legislature.

33 New Sec. 5. (a) No business of the board shall be transacted except at
34 a regular or special meeting at which a quorum consisting of at least a
35 majority of the total membership of the board is present. Any action of the
36 board shall require the affirmative vote of a majority of those at any meeting
37 of the board at which a quorum is present.

38 (b) Notwithstanding any provision of K.S.A. 75-4317 et seq., and
39 amendments thereto, in the case of the corporation, discussion and consid-
40 eration on any of the following may occur in executive session, when in the
41 opinion of the board, disclosure of the items would be harmful to the com-
42 petitive position of the corporation:

43 (1) Plans that could affect the value of property, real or personal, owned

- 1 or desirable for ownership by the corporation;
- 2 (2) the condition, acquisition, use or disposition of real or personal prop-
- 3 erty; or
- 4 (3) contracts for research, product manufacturing or commercialization,
- 5 construction and renovation of facilities and marketing or operational
- 6 strategies.
- 7 (c) Notwithstanding any provision of this section to the contrary, the
- 8 corporation may claim the benefit of any other exemption to the Kansas
- 9 open meetings act listed in K.S.A. 75-4317 et seq., and amendments thereto.
- 10 New Sec. 6. (a) All resolutions and orders of the board shall be re-
- 11 corded and authenticated by the signature of the secretary or any assistant
- 12 secretary of the board. The book of resolutions, orders, minutes of open
- 13 meetings, annual reports and annual financial statements of the Kansas tour-
- 14 ism corporation shall be public records as defined by K.S.A. 45-215 et seq.,
- 15 and amendments thereto. All public records shall be subject to regular audit
- 16 as provided in K.S.A. 46-1106, and amendments thereto.
- 17 (b) Notwithstanding any provision of K.S.A. 45-215 et seq., and amend-
- 18 ments thereto, to the contrary, the following records of the corporation shall
- 19 not be subject to the provisions of the Kansas open records act, when in
- 20 the opinion of the board, the disclosure of the information in the records
- 21 would be harmful to the competitive position of the corporation:
- 22 (1) Proprietary information gathered by or in the possession of the cor-
- 23 poration from third parties pursuant to a promise of confidentiality;
- 24 (2) contract cost estimates prepared for confidential use in awarding
- 25 contracts for construction, renovation, commercialization or the purchase
- 26 of goods or services; and
- 27 (3) data, records or information of a proprietary nature produced or
- 28 collected by or for the corporation, its employees, officers or members of
- 29 its board; financial statements not publicly available that may be filed with
- 30 the corporation from third parties; the identity, accounts or account status
- 31 of any customer of the corporation; consulting or other reports paid for by
- 32 the corporation to assist the corporation in connection with its strategic
- 33 planning and goals; and the determination of marketing and operational
- 34 strategies where disclosure of such strategies would be harmful to the com-
- 35 petitive position of the corporation.
- 36 (c) Notwithstanding any provision of this section to the contrary, the
- 37 corporation may claim the benefit of any other exemption to the Kansas
- 38 open records act listed in K.S.A. 45-215 et seq., and amendments thereto.
- 39 New Sec. 7. (a) Any member of the board and any employee, other
- 40 agent or advisor of the Kansas tourism corporation, who has a direct or
- 41 indirect interest in any contract or transaction with the corporation, shall
- 42 disclose this interest to the corporation in writing. This interest shall be set
- 43 forth in the minutes of the corporation, and no director, officer, employee,

1 other agent or advisor having such interest shall participate on behalf of the
2 corporation in the authorization of any such contract or transaction, except
3 that, the provisions of this section shall not be construed to prohibit any
4 employee of any public institution or private enterprise engaged in the busi-
5 ness of tourism who is a member of the board and who has no personal
6 interest, from voting on the authorization of any such contract or transaction
7 between the corporation and such employee's employer.

8 (b) All members of the board and all officers of the corporation shall
9 file a written statement pursuant to K.S.A. 46-247 et seq., and amendments
10 thereto, regarding any substantial interests, within the meaning of K.S.A.
11 46-229, and amendments thereto, that each director or officer may hold.
12 Any employee, agent or advisor of the corporation who has a substantial
13 interest in any contract or transaction with the corporation within the mean-
14 ing of K.S.A. 46-229, and amendments thereto, shall file a written statement
15 of substantial interest pursuant to K.S.A. 46-247 et seq., and amendments
16 thereto.

17 New Sec. 8. (a) The Kansas tourism corporation shall have all of the
18 powers necessary to carry out the purposes and provisions of this act, in-
19 cluding, without limitation, the following powers to:

20 (1) Make, amend and repeal bylaws, rules and regulations for the man-
21 agement of its affairs;

22 (2) sue and be sued;

23 (3) make contracts and execute all instruments necessary or convenient
24 for carrying out its business;

25 (4) borrow money and to pledge all or any part of the corporation's
26 assets therefore, provided that the indebtedness and other obligations of
27 the corporation shall be payable solely out of its own resources, and shall
28 not constitute a pledge of the full faith and credit of the state;

29 (5) purchase, lease, trade, exchange or otherwise acquire, maintain,
30 hold, improve, mortgage, sell and dispose of personal property, whether
31 tangible or intangible, and any interest therein, and to purchase, lease, trade,
32 exchange or otherwise acquire real property or any interest therein, and to
33 maintain, hold, improve, mortgage, sell, lease and otherwise transfer such
34 real property to the public institutions and private enterprises in the state,
35 so long as such transactions do not conflict with the purposes of the cor-
36 poration as specified in this act;

37 (6) deposit any moneys of the corporation in any banking institution
38 within the state or in any depository authorized to receive such deposits,
39 one or more persons to act as custodians of the moneys of the corporation;

40 (7) own, possess and take license in patents, copyrights, trademarks and
41 proprietary processes and to negotiate and enter into contracts for the pur-
42 poses of commercializing and establishing charges for the use of such pat-
43 ents, copyrights, trademarks and proprietary processes involving tourism;

- 1 (8) contract for and to accept any gifts, grants and loans of funds, prop-
2 erty or any other aid in any form from the federal government, the state,
3 any state agency or any other source, or any combination thereof, and to
4 comply with the provisions of the terms and conditions thereof;
- 5 (9) acquire space, equipment, services, supplies and insurance neces-
6 sary to carry out the purposes of this act;
- 7 (10) provide and pay for such advisory services and technical assistance
8 that may be necessary or desirable to carry out the purposes of the
9 corporation;
- 10 (11) solicit, study and assist in the preparation of business plans and
11 proposals of new or established businesses to advance tourism in the state;
- 12 (12) organize, conduct, sponsor or cooperate with and assist both the
13 private sector and educational institutions in the conduct of special insti-
14 tutes, conferences, demonstrations and studies relating to the marketing
15 and promotion of tourism in Kansas;
- 16 (13) participate with any state agency or educational institution in de-
17 veloping specific programs and goals to assist in research and development
18 in the fields of tourism and tourism marketing;
- 19 (14) establish a program of awarding grants to private and public enti-
20 ties to encourage and facilitate the marketing and promotion of tourism in
21 the state of Kansas;
- 22 (15) provide marketing and promotion of the state of Kansas, including
23 the development of products and services designed to promote the state,
24 conducting research and facilitating product development in the fields of
25 tourism;
- 26 (16) exercise any and all powers, duties and functions transferred and
27 conferred upon the corporation pursuant to sections 18 through 24, and
28 amendments thereto; and
- 29 (17) do any and all things necessary or convenient to carry out the
30 corporation's purposes and exercise the powers given in this act.
- 31 (b) The board of directors of the Kansas tourism corporation may adopt
32 a name that is different from the name "Kansas tourism corporation" for
33 use by the corporation on all literature, brochures, letterhead and any other
34 materials or publications produced by the corporation and for any other
35 purpose the corporation deems necessary, except that the corporation shall
36 use the name "Kansas tourism corporation" when executing any documents
37 having legal significance. Any name adopted pursuant to this subsection may
38 be changed from time to time as the board determines is in the best interests
39 of the corporation.
- 40 (c) The corporation may participate in joint ventures and collaborate
41 with any taxpayer, governmental body or agency, university and college of
42 the state or any other entity to facilitate any activities or programs consistent
43 with the purpose and intent of this act.

1 (d) In carrying out any activities authorized by this act, the corporation
2 may provide appropriate assistance, including the making of loans and pro-
3 viding time of employees, to any taxpayer, governmental body or agency,
4 university and college of the state or any other entity, whether or not any
5 such taxpayer, governmental body or agency, university and college of the
6 state, or any other entity is owned or controlled in whole or in part, directly
7 or indirectly, by the corporation.

8 (e) Notwithstanding any provision of law to the contrary, the corpora-
9 tion may, on an independent basis for itself invest the funds received from
10 gifts, grants, donations and other operations of the corporation in such in-
11 vestments as would be lawful for a private corporation having purposes
12 similar to the corporation, and in any obligations or securities as authorized
13 by the board. Prior to making any investments, the board shall adopt written
14 investment guidelines.

15 (f) Except as provided in this act, all moneys earned or received by the
16 corporation, including all funds derived from the tourism promotion and
17 development activities conducted by the corporation or from the travel and
18 tourism development fund, shall belong exclusively to the corporation.

19 (g) The corporation shall not be subject to state purchasing laws.

20 New Sec. 9. (a) The Kansas tourism corporation shall prepare and pub-
21 lish an annual report and present such report to the legislature, the governor
22 and Kansas, Inc. The report shall include detailed information on the op-
23 erations and transactions conducted pursuant to this act, the distributions
24 from the travel and tourism development fund and the use of corporation
25 income, investments and income tax credits and exemptions attributed to
26 Kansas tourism corporation activity.

27 (b) Three years from the effective date of this act and every three years
28 thereafter, the corporation shall be subject to review by Kansas, Inc. In the
29 review, Kansas, Inc. shall evaluate and report on the effectiveness of the
30 activities of the Kansas tourism corporation in the manner provided in
31 K.S.A. 74-8010, and amendments thereto.

32 New Sec. 10. (a) The Kansas tourism corporation may employ such
33 employees as it may require and upon such terms and conditions as it may
34 establish. The corporation shall establish personnel, payroll, benefit and
35 other such systems as authorized by the board, such systems to be initially
36 established or contracted as designated by the board. The corporation shall
37 determine the qualifications and duties of its employees. The board shall
38 develop and adopt policies and procedures that will afford its employees
39 grievance rights, ensure that employment decisions shall be based upon
40 merit and fitness of applicants and shall prohibit discrimination because of
41 race, religion, color, sex or national origin.

42 (b) The provisions of article 32 of chapter 75 of the Kansas Statutes
43 Annotated, any acts amendatory thereof or supplemental thereto and any

1 rules and regulations adopted thereunder, shall not apply to members of
2 the board of directors, officers or employees of the Kansas tourism corpo-
3 ration. Subject to policies established by the board of directors, the president
4 of the corporation or the president's designee shall be authorized to approve
5 all travel and travel expenses of such officers and employees.

6 (c) Nothing in this act or any act of which it is amendatory shall be
7 construed as placing any officer or employee of the Kansas tourism corpo-
8 ration in the classified service under the Kansas civil service act.

9 New Sec. 11. The corporation may, at the election of the board, affil-
10 iate with the Kansas public employees retirement system with respect to
11 any or all employees employed by the corporation on or after the effective
12 date of this act, in accordance with the provisions of K.S.A. 74-4910, and
13 amendments thereto. The corporation may, at the election of the board,
14 adopt, in accordance with requirements of the federal internal revenue
15 code, a retirement plan or plans sponsored by the corporation with respect
16 to employees employed by the corporation on or after the effective date of
17 this act. The corporation may, at the discretion of the board, provide death
18 and disability benefits as provided in K.S.A. 74-4927a and 74-4927g, and
19 amendments thereto.

20 New Sec. 12. The Kansas tourism corporation shall be exempt from
21 any real and personal property taxes upon any property of the corporation
22 acquired and used for its public purposes, and from any taxes or assessments
23 upon any projects or upon any operations of the corporation or the income
24 therefrom, and from any taxes or assessments upon any project or any prop-
25 erty or local obligation acquired or used by the corporation under the pro-
26 visions of this act or upon the income therefrom. Purchases by the corpo-
27 ration to be used for its public purposes shall not be subject to sales or use
28 tax under K.S.A. 79-3601 et seq., K.S.A. 79-3701 et seq. and subsection (b)
29 of K.S.A. 79-3606, and amendments thereto. The exemptions hereby
30 granted shall not extend to persons or entities conducting business on the
31 corporation's property for which payment of state and local taxes would
32 otherwise be required.

33 New Sec. 13. Notwithstanding any other provision of law to the con-
34 trary, the Kansas tourism corporation, its officers, directors, employees and
35 agents shall be subject to and covered by the Kansas tort claims act, K.S.A.
36 75-6101 et seq., and amendments thereto.

37 New Sec. 14. Nothing in this act should be construed as allowing the
38 board to sell the Kansas tourism corporation or substantially all of the assets
39 of the corporation, or to merge the corporation with another institution,
40 without prior legislative authorization by statute.

41 New Sec. 15. (a) The travel and tourism development fund is hereby
42 created. The travel and tourism development fund shall not be a part of the
43 state treasury and the funds in the travel and tourism development fund

1 shall belong exclusively to the corporation.

2 (b) Distributions from the travel and tourism development fund shall
3 be for the exclusive benefit of the corporation, under the control of the
4 board and used to fulfill the purpose, powers and duties of the corporation
5 pursuant to the provisions of this act.

6 (c) On or before the 10th day of each month, the director of accounts
7 and reports shall transfer from the state general fund to the travel and
8 tourism development fund interest earnings based on:

9 (1) The average daily balance of moneys in the travel and tourism de-
10 velopment fund for the preceding month; and

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

13 (d) The division of post audit is hereby authorized to conduct a post
14 audit in accordance with the provisions of the state post audit act, K.S.A.
15 46-1106 et seq., and amendments thereto.

16 (e) At the direction of the corporation, the fund may be held in the
17 custody of and invested by the state treasurer, provided that the travel and
18 tourism development fund shall at all times be accounted for in a separate
19 report from all other funds of the corporation and the state.

20 New Sec. 16. (a) The secretary of revenue and the Kansas tourism
21 corporation shall establish the base year taxation for all tourism companies.
22 The secretary of revenue and the corporation may consider any verifiable
23 evidence, including, but not limited to, the NAICS code assigned or re-
24 corded by the department of revenue for companies subject to state sales
25 tax imposed by K.S.A. 79-3603, and amendments thereto, when determin-
26 ing which companies should be classified as tourism companies.

27 (b) On and after July 1, 2008, the state treasurer shall pay quarterly
28 50% of the state sales tax imposed by K.S.A. 79-3603, and amendments
29 thereto, above the base year taxation collected from tourism companies
30 doing business within the state, as certified by the secretary of revenue, to
31 the travel and tourism development fund established by section 15, and
32 amendments thereto. Such payments shall be reconciled on at least an an-
33 nual basis.

34 New Sec. 17. Each tourism company receiving grants, awards or any
35 other financial assistance, including financing for any tourism development
36 project, under the provisions of this act shall repay such financial assistance
37 to the corporation, in the amount determined by the corporation, if such
38 tourism company relocates operations, in which the corporation invested,
39 outside Kansas within 10 years after receiving such financial assistance. Each
40 such tourism company shall enter into a repayment agreement with the
41 corporation specifying the terms of such repayment obligation.

42 New Sec. 18. (a) The director of accounts and reports shall transfer all
43 balances for all funds or accounts thereof appropriated or reappropriated

1 for the department of commerce relating to the powers, duties and functions
2 of the division of travel and tourism development created by K.S.A. 74-
3 5032, and amendments thereto, to the travel and tourism development fund
4 established by section 15, and amendments thereto.

5 (b) All liabilities of the division of travel and tourism development, in-
6 cluding accrued compensation or salaries of officers and employees who are
7 transferred to the Kansas tourism corporation under this act, shall be as-
8 sumed and paid by the Kansas tourism corporation.

9 (c) Except as otherwise provided in sections 19 through 22, and amend-
10 ments thereto, all of the powers, duties and functions of the existing division
11 of travel and tourism development are hereby transferred to and conferred
12 and imposed upon, the Kansas tourism corporation created by section 4,
13 and amendments thereto, and the division of travel and tourism develop-
14 ment is hereby abolished.

15 (d) The provisions of this section shall take effect and be in force on
16 and after January 1, 2009.

17 New Sec. 19. (a) The Kansas tourism corporation created by section 4,
18 and amendments thereto, shall be the successor in every way to the powers,
19 duties, and functions of the division of travel and tourism development
20 created by K.S.A. 74-5032, and amendments thereto, in which the same
21 were vested prior to the effective date of this section and that are transferred
22 pursuant to section 18, and amendments thereto. Every act performed in
23 the exercise of such transferred powers, duties, and functions by or under
24 the corporation pursuant to this act shall be deemed to have the same force
25 and effect as if performed by the division of travel and tourism development
26 in which such powers, duties, and functions were vested prior to the effec-
27 tive date of this section.

28 (b) Whenever the division of travel and tourism development or words
29 of like effect, are referred to or designated by a statute, contract or other
30 document and such reference is in regard to any of the powers, duties or
31 functions transferred to the Kansas tourism corporation pursuant to section
32 18, and amendments thereto, such reference or designation shall be deemed
33 to apply to the Kansas tourism corporation.

34 (c) All rules and regulations, orders and directives of the division of
35 travel and tourism development which relate to the functions transferred
36 by section 18, and amendments thereto, and which are in effect on the
37 effective date of this section shall continue to be effective and shall be
38 deemed to be rules and regulations, orders and directives of the Kansas
39 tourism corporation until revised, amended, revoked or nullified pursuant
40 to law.

41 (d) The provisions of this section shall take effect and be in force on
42 and after January 1, 2009.

43 New Sec. 20. (a) When any conflict arises as to the disposition of any

1 property, power, duty, or function or the unexpended balance of any ap-
2 propriation as a result of any abolition or transfer made by or under this
3 act, such conflict shall be resolved by the governor, whose decision shall be
4 final.

5 (b) The Kansas tourism corporation shall succeed to all property, prop-
6 erty rights and records which were used for or pertain to the performance
7 of powers, duties and functions transferred to the corporation. Any conflict
8 as to the proper disposition of property, personnel or records arising under
9 this act shall be determined by the governor, whose decision shall be final.

10 (c) The provisions of this section shall take effect and be in force on
11 and after January 1, 2009.

12 New Sec. 21. (a) The Kansas tourism corporation shall have the legal
13 custody of all records, memoranda, writings, entries, prints, representations,
14 electronic data or combinations thereof of any act, transaction, occurrence
15 or event of the division of travel and tourism development.

16 (b) No suit, action, or other proceeding, judicial or administrative, law-
17 fully commenced, or which could have been commenced, by or against any
18 state agency or program mentioned in this act, or by or against any officer
19 of the state in such officer's official capacity or in relation to the discharge
20 of such officer's official duties, shall abate by reason of the governmental
21 reorganization effected under the provisions of this act. The court may allow
22 any such suit, action, or other proceeding to be maintained by or against
23 the successor of any such state agency or any officer affected.

24 (c) No criminal action commenced or which could have been com-
25 menced by the state shall abate by the taking effect of this section.

26 (d) The provisions of this section shall take effect and be in force on
27 and after January 1, 2009.

28 New Sec. 22. (a) All officers and employees of the division of travel
29 and tourism development who, immediately prior to the effective date of
30 this section, are engaged in the exercise and performance of the powers,
31 duties, and functions transferred by section 18, and amendments thereto,
32 as well as all officers and employees of the division of travel and tourism
33 development who are determined by the secretary of commerce to be en-
34 gaged in providing administrative, technical, or other support services that
35 are essential to the exercise and performance of the powers, duties, and
36 functions transferred by section 18, and amendments thereto, are hereby
37 transferred to the Kansas tourism corporation. All such employees so trans-
38 ferred shall ~~be deemed unclassified employees upon the effective date of~~
39 ~~this section regardless of such employees' classification prior to the effective~~
40 ~~date of this section~~ **[retain such employee's classification status under**
41 **the Kansas civil service act].**

42 (b) Officers and employees of the division of travel and tourism devel-
43 opment transferred by subsection (a) shall retain all retirement benefits and

1 leave balances and rights which had accrued or vested prior to the date of
2 transfer. The service of each such officer and employee so transferred shall
3 be deemed to have been continuous.

4 (c) The provisions of this section shall take effect and be in force on
5 and after January 1, 2009.

6 New Sec. 23. (a) On January 1, 2009, the director of accounts and
7 reports shall transfer any remaining balance in the state tourism fund es-
8 tablished by K.S.A. 74-9003, and amendments thereto, to the travel and
9 tourism development fund established by section 15, and amendments
10 thereto.

11 (b) On January 1, 2009, all liabilities of the state tourism fund are hereby
12 imposed on the travel and tourism development fund, and the state tourism
13 fund and the council on travel and tourism created by K.S.A. 74-9001, and
14 amendments thereto, are hereby abolished.

15 New Sec. 24. (a) On January 1, 2009, the director of accounts and
16 reports shall transfer any remaining balance in the Kansas tourist attraction
17 matching grant development fund established by K.S.A. 74-5091, and
18 amendments thereto, to the travel and tourism development fund estab-
19 lished by section 15, and amendments thereto.

20 (b) On January 1, 2009, all liabilities of the Kansas tourist attraction
21 matching grant development fund are hereby imposed on the travel and
22 tourism development fund, and the Kansas tourist attraction matching grant
23 development fund and the state matching grant program established by
24 K.S.A. 74-5089, and amendments thereto, are hereby abolished.

25 New Sec. 25. Insofar as the provisions of this act are inconsistent with
26 the provisions of any other law, general, specific or local, the provisions of
27 this act shall be controlling.

28 New Sec. 26. The corporation is exempt from the provisions of K.S.A.
29 12-1675 through 12-1677, 45-401 through 45-413, 75-2925 through 75-
30 2975, 75-3701 through 75-37,119, 75-4362, 75-4701 through 75-4717 and
31 77-501 through 77-550, and amendments thereto.

32 New Sec. 27. If any provision of this act, or the acts contained in this
33 act, or the application thereof is held invalid, the invalidity shall not affect
34 other provisions or applications of the act, or the acts contained in this act,
35 which can be given effect without the invalid provision or application, and
36 to this end the provisions of this act, and the acts contained in this act, are
37 severable.

38 New Sec. 28. The provisions of sections 1 through 28, and amend-
39 ments thereto, shall expire on and after July 1, 2013. The provisions of
40 sections 1 through 28, and amendments thereto, shall be reviewed by the
41 legislature prior to July 1, 2013.

42 Sec. 29. On and after January 1, 2009, K.S.A. 73-2103 is hereby
43 amended to read as follows: 73-2103. (a) In fulfilling its responsibilities, the

1 Eisenhower centennial commission shall consult, cooperate with and seek
2 advice from appropriate state departments and agencies, local public bodies,
3 learned societies, and historical, patriotic, philanthropic, civil, professional
4 and related organizations. State departments and agencies may cooperate
5 with the commission in planning, encouraging, developing and coordinating
6 appropriate commemorative activities.

7 (b) The chief executive officer of each state university shall cooperate
8 with the commission, especially in the encouragement and coordination of
9 scholarly works and presentations on the history, culture and political
10 thought on the life and times of Dwight D. Eisenhower.

11 (c) The state historical society and the state librarian shall cooperate
12 with the commission, especially in the development and display of exhibits
13 and collections and in the development of bibliographies, catalogs and other
14 materials relevant to the period of the life of Dwight D. Eisenhower.

15 (d) ~~The secretary of commerce~~ *Kansas tourism corporation* shall co-
16 operate with the commission, especially in encouraging, ~~through the division~~
17 ~~of travel and tourism development,~~ visitors to the state to learn more about
18 Dwight D. Eisenhower and his Kansas roots.

19 Sec. 30. On and after January 1, 2009, K.S.A. 2007 Supp. 73-2402 is
20 hereby amended to read as follows: 73-2402. (a) There is hereby created
21 an advisory committee to assist in the work of the Kansas territorial ses-
22 quicentennial commission. The advisory committee shall be composed of
23 the following members:

24 (1) The executive director of the Kansas state historical society, who
25 shall serve as chairperson of the advisory committee;

26 (2) the director of the Kansas humanities council or the director's
27 designee;

28 (3) the director of the Kansas arts commission or the director's
29 designee;

30 (4) ~~the director of the division of travel and tourism development of~~
31 ~~the department of commerce or the director's designee~~ *president of the*
32 *Kansas tourism corporation or the president's designee;*

33 (5) the commissioner of education or the commissioner's designee;

34 (6) fifteen members appointed by the governor as follows: (A) Six mem-
35 bers of history faculties of universities under the supervision of the state
36 board of regents; (B) six members of history faculties of community colleges
37 or private colleges or universities in the state; (C) a representative of the
38 travel industry association of Kansas; (D) a representative of the Kansas
39 museums association; and (E) a representative of the territorial Kansas her-
40 itage alliance;

41 (7) two members appointed by the speaker of the house of
42 representatives;

43 (8) two members appointed by the minority leader of the house of

1 representatives;

2 (9) two members appointed by the president of the senate; and

3 (10) two members appointed by the minority leader of the senate.

4 (b) The chairperson of the advisory committee shall appoint a person
5 to serve as secretary of the committee.

6 (c) Members of the advisory committee shall serve without compen-
7 sation or reimbursement of expenses.

8 Sec. 31. On and after January 1, 2009, K.S.A. 2007 Supp. 73-2404 is
9 hereby amended to read as follows: 73-2404. (a) In fulfilling its responsi-
10 bilities, the Kansas territorial sesquicentennial commission shall consult, co-
11 operate with and seek advice from appropriate state agencies, local and
12 public bodies, learned societies and historical, patriotic, philanthropic, civil,
13 professional and related organizations. State agencies shall cooperate with
14 the commission in planning, encouraging, developing and coordinating ap-
15 propriate commemorative activities.

16 (b) The chief executive officer of each state university shall cooperate
17 with the commission, especially in the encouragement and coordination of
18 scholarly works and presentations on the history, culture and political activ-
19 ities related to the territorial period in Kansas history.

20 (c) The state historical society and the state librarian shall cooperate
21 with the commission, especially in the development and displays of exhibits
22 and collections and in the development of bibliographies, catalogs and other
23 materials relevant to the territorial period.

24 (d) ~~The division of travel and tourism—development of the department~~
25 ~~of commerce~~ *Kansas tourism corporation* shall cooperate with the com-
26 mission in marketing to potential visitors to the state commemorative activ-
27 ities enabling visitors to experience the cultural heritage of Kansas.

28 Sec. 32. On and after January 1, 2009, K.S.A. 2007 Supp. 74-5005 is
29 hereby amended to read as follows: 74-5005. The department shall be the
30 lead agency of the state for economic development of commerce through
31 the promotion of business, industry, trade and tourism within the state. In
32 general, but not by way of limitation, the department shall have, exercise
33 and perform the following powers and duties:

34 (a) To assume central responsibility for implementing all facets of a
35 comprehensive, long-term, economic development strategy and for coordi-
36 nating the efforts of both state agencies and local economic development
37 groups as they relate to that objective;

38 (b) to coordinate the implementation of the strategy with all other state
39 and local agencies and offices and state educational institutions which do
40 research work, develop materials and programs, gather statistics; or which
41 perform functions related to economic development; and such state and
42 local agencies and offices and state educational institutions shall advise and
43 cooperate with the department in the planning and accomplishment of the

1 purposes of this act;

2 (c) to advise and cooperate with all federal departments, research in-
3 stitutions, educational institutions and agencies, quasi-public professional
4 societies, private business and agricultural organizations and associations,
5 and any other party, public or private, and to call upon such parties for
6 consultation, and assistance in their respective fields of interest, to the end
7 that all up to date available technical advice, information and assistance be
8 gathered for the use of the department, the governor, the legislature, and
9 the people of this state;

10 (d) to enter into agreements necessary to carry out the purposes of this
11 act;

12 (e) to conduct an effective business information service, keeping up to
13 date information on such things as manufacturing industries, labor supply
14 and economic trends in employment, income, savings and purchasing power
15 within the state, utilizing the services and information available from the
16 division of the budget of the department of administration;

17 (f) to support a coordinated program of scientific and industrial research
18 with the objective of developing additional uses of the state's natural re-
19 sources, agriculture, agricultural products, new and better industrial prod-
20 ucts and processes, and the best possible utilization of the raw materials in
21 the state; and to coordinate this responsibility with the state educational
22 institutions, with all state and federal agencies, and all public and private
23 institutions within or outside the state, all in an effort to assist and encourage
24 new industries or expansion of existing industries through basic research,
25 applied research and new development;

26 (g) to maintain and keep current all available information regarding the
27 industrial opportunities and possibilities of the state, including raw materials
28 and by-products; power and water resources; transportation facilities; avail-
29 able markets and the marketing limitations of the state; labor supply; bank-
30 ing and financing facilities; availability of industrial sites; and the advantages
31 the state and its particular sections have as industrial locations; and such
32 information shall be used for the encouragement of new industries in the
33 state and the expansion of existing industries within the state;

34 (h) to publicize information and the economic advantages of the state
35 which make it a desirable place for commercial and industrial operations
36 and as a good place in which to live;

37 (i) to establish a clearinghouse for the collection and dissemination of
38 information concerning the number and location of public and private pos-
39 tsecondary vocational and technical education programs in areas critical to
40 economic development;

41 (j) to acquaint the people of this state with the industries within the
42 state and encourage closer cooperation between the farming, commercial
43 and industrial enterprises and the people of the state;

1 ~~(k)~~ to encourage and promote the traveling public to visit this state by
2 ~~publicizing information as to the recreational, historic and natural advan-~~
3 ~~tages of the state and its facilities for transient travel and to contract with~~
4 ~~organizations for the purpose of promoting tourism within the state; and~~
5 ~~the department may request other state agencies such as, but not limited~~
6 ~~to, the Kansas water office, the Kansas department of wildlife and parks~~
7 ~~and the department of transportation, for assistance and all such agencies~~
8 ~~shall coordinate information and their respective efforts with the depart-~~
9 ~~ment to most efficiently and economically carry out the purpose and intent~~
10 ~~of this subsection;~~
11 ~~(l)~~ to participate in economic development and planning assistance pro-
12 grams of the federal government to political subdivisions;
13 ~~(m)~~ (l) to assist counties and cities in industrial development through
14 the establishment of industrial development corporations, including site sur-
15 veys, small business administration situations, and render such other similar
16 assistance as may be required; and in those instances where it is deemed
17 appropriate, to contract with and make a service charge to the county or
18 city involved for such services rendered;
19 ~~(n)~~ (m) to render assistance to private enterprise on planning problems
20 and site surveys upon request and shall make a reasonable service charge
21 for such services rendered; and any moneys received for services rendered,
22 as provided in this subsection, shall be deposited in the fund and expended
23 therefrom, as provided in subsection ~~(o)~~ (n);
24 ~~(o)~~ (n) to make agreements with other states and with the United States
25 government, or its agencies, and to accept funds from the federal govern-
26 ment, or its agencies, or any other source for research studies, investigation,
27 planning and other purposes related to the duties of the department; and
28 any funds so received shall be remitted to the state treasurer in accordance
29 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon re-
30 ceipt of each such remittance, the state treasurer shall deposit the entire
31 amount in the state treasury to the credit of a special revenue fund which
32 is hereby created and shall be known as the “economic development fund”
33 or used in accordance with or direction of the contributing federal agencies;
34 and expenditures from such fund may be made for any purpose in keeping
35 with the responsibilities, functions and authority of the department; and
36 warrants on such fund shall be drawn in the same manner as required of
37 other state agencies upon vouchers signed by the secretary;
38 ~~(p)~~ (o) to do other and further acts as shall be necessary and proper in
39 fostering and promoting the industrial development and economic welfare
40 of the state;
41 ~~(q)~~ (p) to organize, or cause to be organized, an advisory board or boards
42 representing interested groups, including industry, labor, agriculture, sci-
43 entific research, the press, the professions, industrial associations, civic

1 groups, etc.; and such board or boards shall advise with the department as
2 to its work and the department shall, as far as practicable, cooperate with
3 such board or boards, and secure the active aid thereof in the accomplish-
4 ment of the aims and objectives of the department;
5 ~~(q)~~ (q) to perform the duties imposed under the Kansas venture capital
6 company act;
7 ~~(r)~~ (r) to serve as the central agency and clearinghouse to collect and
8 disseminate ideas and information bearing on local planning problems; and,
9 in so doing, the department, upon request of the board of county commis-
10 sioners of any county or the governing body of any city in the state, may
11 make a study and report upon any planning problem of such county or city
12 submitted to it;
13 ~~(s)~~ (s) to disseminate to the public information concerning economic
14 development programs available in the state, regardless of whether such
15 programs are administered by the department or some other agency and
16 the department shall make available audio-visual and written materials de-
17 scribing the economic development programs to local chambers of com-
18 merce, economic development organizations, banks and public libraries and
19 shall take other measures as may be necessary to effectuate the purpose of
20 this subsection; and
21 ~~(t)~~ (t) to perform the duties imposed under the individual development
22 account program act, K.S.A. 2007 Supp. 74-50,201 through 74-50,208, and
23 amendments thereto.
24 Sec. 33. K.S.A. 2007 Supp. 79-3620 is hereby amended to read as fol-
25 lows: 79-3620. (a) All revenue collected or received by the director of tax-
26 ation from the taxes imposed by this act shall be remitted to the state trea-
27 surer in accordance with the provisions of K.S.A. 75-4215, and amendments
28 thereto. Upon receipt of each such remittance, the state treasurer shall
29 deposit the entire amount in the state treasury, less amounts withheld as
30 provided in subsection (b) ~~and~~, amounts credited as provided in subsection
31 (c) and (d) *and amounts paid as provided in subsection (e)*, to the credit of
32 the state general fund.
33 (b) A refund fund, designated as “sales tax refund fund” not to exceed
34 \$100,000 shall be set apart and maintained by the director from sales tax
35 collections and estimated tax collections and held by the state treasurer for
36 prompt payment of all sales tax refunds including refunds authorized under
37 the provisions of K.S.A. 79-3635, and amendments thereto. Such fund shall
38 be in such amount, within the limit set by this section, as the director shall
39 determine is necessary to meet current refunding requirements under this
40 act. In the event such fund as established by this section is, at any time,
41 insufficient to provide for the payment of refunds due claimants thereof,
42 the director shall certify the amount of additional funds required to the
43 director of accounts and reports who shall promptly transfer the required

1 amount from the state general fund to the sales tax refund fund, and notify
2 the state treasurer, who shall make proper entry in the records.

3 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected or
4 received from the tax imposed by K.S.A. 79-3603, and amendments thereto,
5 at the rate of 4.9%, and deposited as provided in subsection (a), exclusive
6 of amounts credited pursuant to subsection (d), in the state highway fund.

7 (2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or re-
8 ceived from the tax imposed by K.S.A. 79-3603, and amendments thereto,
9 at the rate of 5.3%, and deposited as provided in subsection (a), exclusive
10 of amounts credited pursuant to subsection (d), in the state highway fund.

11 (3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the revenue
12 collected and received from the tax imposed by K.S.A. 79-3603, and amend-
13 ments thereto, at the rate of 5.3%, and deposited as provided by subsection
14 (a), exclusive of amounts credited pursuant to subsection (d), in the state
15 highway fund.

16 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the revenue
17 collected and received from the tax imposed by K.S.A. 79-3603, and amend-
18 ments thereto, at the rate of 5.3%, and deposited as provided by subsection
19 (a), exclusive of amounts credited pursuant to subsection (d), in the state
20 highway fund.

21 (d) The state treasurer shall credit all revenue collected or received
22 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as cer-
23 tified by the director, from taxpayers doing business within that portion of
24 a redevelopment district occupied by a redevelopment project or taxpayers
25 doing business with such entity financed by a special bond project as defined
26 in K.S.A. 12-1770a, and amendments thereto, that was determined by the
27 secretary of commerce to be of statewide as well as local importance or will
28 create a major tourism area for the state or the project was designated as a
29 special bond project as defined in K.S.A. 12-1770a, and amendments
30 thereto, to the city bond finance fund, which fund is hereby created. The
31 provisions of this subsection shall expire when the total of all amounts cred-
32 ited hereunder and under subsection (d) of K.S.A. 79-3710, and amend-
33 ments thereto, is sufficient to retire the special obligation bonds issued for
34 the purpose of financing all or a portion of the costs of such redevelopment
35 or special bond project.

36 (e) *The state treasurer shall pay 50% of the state sales tax imposed by*
37 *K.S.A. 79-3603, and amendments thereto, above the base year taxation col-*
38 *lected from tourism companies doing business within the state, as certified*
39 *by the secretary of revenue, to the travel and tourism development fund*
40 *established by section 15, and amendments thereto, in accordance with the*
41 *provisions of section 16, and amendments thereto, exclusive of amounts cred-*
42 *ited pursuant to ~~subsection~~ [subsections (c) and] (d).*

43 Sec. 34. K.S.A. 2007 Supp. 79-3620 is hereby repealed.

1 Sec. 35. On and after January 1, 2009, K.S.A. 73-2103, 74-5032, 74-
2 5032a and 74-5090 and K.S.A. 2007 Supp. 73-2402, 73-2404, 74-5005, 74-
3 5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005 are hereby
4 repealed.

5 Sec. 36. This act shall take effect and be in force from and after its
6 publication in the statute book.