

HOUSE BILL No. 2120

By Committee on Economic Development and Tourism

1-27

9 AN ACT concerning tourism; creating the Kansas tourism corporation
10 and providing for the powers and duties thereof; transferring the pow-
11 ers and duties of the division of travel and tourism development to the
12 Kansas tourism corporation; providing for tourism development and
13 funding; amending K.S.A. 73-2103 and K.S.A. 2008 Supp. 73-2402,
14 73-2404, 74-5005 and 79-3620 and repealing the existing sections; also
15 repealing K.S.A. 74-5032, 74-5032a and 74-5090 and K.S.A. 2008
16 Supp. 74-5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-
17 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 corpo-
22 ration act.

23 New Sec. 2. The purpose of the Kansas tourism corporation is to
24 provide for a collaboration of public and private organizations responsible
25 for influencing tourism spending and growing the Kansas economy by
26 enhancing the visitor experience through targeted marketing, product
27 development, 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 mean-
30 ings unless a different meaning clearly appears from the context:

31 (a) "Base year taxation" means all of the 2008 state sales taxes im-
32 posed by K.S.A. 79-3603, and amendments thereto, collected from tour-
33 ism companies doing business in the state.

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

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

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

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

41 (f) "Taxpayer" means a person, corporation, limited liability company,
42 S corporation, partnership, registered limited liability partnership, foun-
43 dation, association, nonprofit entity, sole proprietorship, business trust,

1 group or other entity that is subject to the Kansas income tax act K.S.A.
2 79-3201 et seq., and amendments thereto.

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

7 (h) “Tourism company” means a corporation, limited liability com-
8 pany, S corporation, partnership, registered limited liability partnership,
9 foundation, association, nonprofit entity, sole proprietorship, business
10 trust, person, group or other entity that is engaged in the business of
11 tourism in the state and has business operations in the state, including,
12 without limitation, research, development or production directed towards
13 developing or providing tourism products or services for specific com-
14 mercial or public purposes and are identified by the following NAICS
15 codes: 71111, 71113, 71119, 71121, 71131, 71132, 71151, 71211, 71212,
16 71213, 71311, 71312, 71329, 71393, 71394, 71395, 71399, 72111, 72112,
17 72119, 72121, 72131, 72211, 72221, 72231, 72232, 72233 and 72241.

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

20 New Sec. 4. (a) There is hereby established a body politic and cor-
21 porate, with corporate succession, to be known as the Kansas tourism
22 corporation. The corporation is hereby constituted a public instrumen-
23 tality and the exercise by the corporation of the rights, powers and priv-
24 ileges conferred by this act in the promotion and development of travel
25 and tourism in the state shall be deemed and held to be the performance
26 of an essential governmental function.

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

1 deemed terminated when the senate rejects the nomination. No such
2 termination shall affect the validity of any action taken by such member
3 of the board before such termination.

4 (c) Of the members who will be appointed to the corporation's first
5 board, the members appointed by the governor shall be appointed for a
6 term of four years, the members appointed by the speaker of the house
7 of representatives and the president of the senate shall be appointed for
8 a term of three years, the members appointed by the minority leader of
9 the house of representatives and the minority leader of the senate shall
10 be appointed for a term of two years and the members appointed by the
11 travel industry association of Kansas shall be appointed for a term of one
12 year. Members of the first board shall be appointed by October 1, 2009.

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

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

35 (f) Members of the board attending board meetings or subcommittee
36 meetings authorized by the board, shall be paid mileage and all other
37 applicable expenses by the corporation, provided such expenses are con-
38 sistent with policies established from time-to-time by the board.

39 (g) No part of the funds of the corporation shall inure to the benefit
40 of, or be distributed to, its employees, officers or members of the board,
41 except that the corporation may make reasonable payments for expenses
42 incurred on its behalf relating to any of its lawful purposes and the cor-
43 poration shall be authorized and empowered to pay reasonable compen-

1 sation for services rendered to or for its benefit relating to any of its lawful
2 purposes, including to pay its employees reasonable compensation.

3 (h) Any member of the board may only be removed by an affirmative
4 vote by nine members of the board for malfeasance or misfeasance in
5 office or other just cause, including, but not limited to, regularly failing
6 to attend meetings or for any cause which renders the member incapable
7 of or unfit to discharge the duties of director.

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

21 (j) The board shall appoint a president who shall serve at the pleasure
22 of the board. The president shall serve as the chief executive officer of
23 the corporation. The president's salary shall be set by the board. The
24 board may negotiate and enter into an employment agreement with the
25 individual selected as president of the corporation, which may provide
26 for compensation allowances, benefits and expenses as may be included
27 in such agreement. The president shall direct and supervise administra-
28 tive affairs and the general management of the corporation.

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

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

41 (b) Notwithstanding any provision of K.S.A. 75-4317 et seq., and
42 amendments thereto, in the case of the corporation, discussion and con-
43 sideration on any of the following may occur in executive session, when

- 1 in the opinion of the board, disclosure of the items would be harmful to
2 the competitive position of the corporation:
- 3 (1) Plans that could affect the value of property, real or personal,
4 owned or desirable for ownership by the corporation;
 - 5 (2) the condition, acquisition, use or disposition of real or personal
6 property; or
 - 7 (3) contracts for research, product manufacturing or commercializa-
8 tion, construction and renovation of facilities and marketing or opera-
9 tional strategies.
- 10 (c) Notwithstanding any provision of this section to the contrary, the
11 corporation may claim the benefit of any other exemption to the Kansas
12 open meetings act listed in K.S.A. 75-4317 et seq., and amendments
13 thereto.
- 14 New Sec. 6. (a) All resolutions and orders of the board shall be re-
15 corded and authenticated by the signature of the secretary or any assistant
16 secretary of the board. The book of resolutions, orders, minutes of open
17 meetings, annual reports and annual financial statements of the Kansas
18 tourism corporation shall be public records as defined by K.S.A. 45-215
19 et seq., and amendments thereto. All public records shall be subject to
20 regular audit as provided in K.S.A. 46-1106, and amendments thereto.
- 21 (b) Notwithstanding any provision of K.S.A. 45-215 et seq., and
22 amendments thereto, to the contrary, the following records of the cor-
23 poration shall not be subject to the provisions of the Kansas open records
24 act, when in the opinion of the board, the disclosure of the information
25 in the records would be harmful to the competitive position of the
26 corporation:
- 27 (1) Proprietary information gathered by or in the possession of the
28 corporation from third parties pursuant to a promise of confidentiality;
 - 29 (2) contract cost estimates prepared for confidential use in awarding
30 contracts for construction, renovation, commercialization or the purchase
31 of goods or services; and
 - 32 (3) data, records or information of a proprietary nature produced or
33 collected by or for the corporation, its employees, officers or members
34 of its board; financial statements not publicly available that may be filed
35 with the corporation from third parties; the identity, accounts or account
36 status of any customer of the corporation; consulting or other reports paid
37 for by the corporation to assist the corporation in connection with its
38 strategic planning and goals; and the determination of marketing and
39 operational strategies where disclosure of such strategies would be harm-
40 ful to the competitive position of the corporation.
- 41 (c) Notwithstanding any provision of this section to the contrary, the
42 corporation may claim the benefit of any other exemption to the Kansas
43 open records act listed in K.S.A. 45-215 et seq., and amendments thereto.

1 New Sec. 7. (a) Any member of the board and any employee, other
2 agent or advisor of the Kansas tourism corporation, who has a direct or
3 indirect interest in any contract or transaction with the corporation, shall
4 disclose this interest to the corporation in writing. This interest shall be
5 set forth in the minutes of the corporation, and no director, officer, em-
6 ployee, other agent or advisor having such interest shall participate on
7 behalf of the corporation in the authorization of any such contract or
8 transaction, except that, the provisions of this section shall not be con-
9 strued to prohibit any employee of any public institution or private en-
10 terprise engaged in the business of tourism who is a member of the board
11 and who has no personal interest, from voting on the authorization of any
12 such contract or transaction between the corporation and such employee's
13 employer.

14 (b) All members of the board and all officers of the corporation shall
15 file a written statement pursuant to K.S.A. 46-247 et seq., and amend-
16 ments thereto, regarding any substantial interests, within the meaning of
17 K.S.A. 46-229, and amendments thereto, that each director or officer may
18 hold. Any employee, agent or advisor of the corporation who has a sub-
19 stantial interest in any contract or transaction with the corporation within
20 the meaning of K.S.A. 46-229, and amendments thereto, shall file a writ-
21 ten statement of substantial interest pursuant to K.S.A. 46-247 et seq.,
22 and amendments thereto.

23 New Sec. 8. (a) The Kansas tourism corporation shall have all of the
24 powers necessary to carry out the purposes and provisions of this act,
25 including, without limitation, the following powers to:

26 (1) Make, amend and repeal bylaws, rules and regulations for the
27 management of its affairs;

28 (2) sue and be sued;

29 (3) make contracts and execute all instruments necessary or conven-
30 ient for carrying out its business;

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

35 (5) purchase, lease, trade, exchange or otherwise acquire, maintain,
36 hold, improve, mortgage, sell and dispose of personal property, whether
37 tangible or intangible, and any interest therein, and to purchase, lease,
38 trade, exchange or otherwise acquire real property or any interest therein,
39 and to maintain, hold, improve, mortgage, sell, lease and otherwise trans-
40 fer such real property to the public institutions and private enterprises in
41 the state, so long as such transactions do not conflict with the purposes
42 of the corporation as specified in this act;

43 (6) deposit any moneys of the corporation in any banking institution

1 within the state or in any depository authorized to receive such deposits,
2 one or more persons to act as custodians of the moneys of the corporation;
3 (7) own, possess and take license in patents, copyrights, trademarks
4 and proprietary processes and to negotiate and enter into contracts for
5 the purposes of commercializing and establishing charges for the use of
6 such patents, copyrights, trademarks and proprietary processes involving
7 tourism;
8 (8) contract for and to accept any gifts, grants and loans of funds,
9 property or any other aid in any form from the federal government, the
10 state, any state agency or any other source, or any combination thereof,
11 and to comply with the provisions of the terms and conditions thereof;
12 (9) acquire space, equipment, services, supplies and insurance nec-
13 essary to carry out the purposes of this act;
14 (10) provide and pay for such advisory services and technical assis-
15 tance that may be necessary or desirable to carry out the purposes of the
16 corporation;
17 (11) solicit, study and assist in the preparation of business plans and
18 proposals of new or established businesses to advance tourism in the state;
19 (12) organize, conduct, sponsor or cooperate with and assist both the
20 private sector and educational institutions in the conduct of special insti-
21 tutes, conferences, demonstrations and studies relating to the marketing
22 and promotion of tourism in Kansas;
23 (13) participate with any state agency or educational institution in
24 developing specific programs and goals to assist in research and devel-
25 opment in the fields of tourism and tourism marketing;
26 (14) establish a program of awarding grants to private and public en-
27 tities to encourage and facilitate the marketing and promotion of tourism
28 in the state of Kansas;
29 (15) provide marketing and promotion of the state of Kansas, includ-
30 ing the development of products and services designed to promote the
31 state, conducting research and facilitating product development in the
32 fields of tourism;
33 (16) exercise any and all powers, duties and functions transferred and
34 conferred upon the corporation pursuant to sections 18 through 24, and
35 amendments thereto; and
36 (17) do any and all things necessary or convenient to carry out the
37 corporation's purposes and exercise the powers given in this act.
38 (b) The board of directors of the Kansas tourism corporation may
39 adopt a name that is different from the name "Kansas tourism corpora-
40 tion" for use by the corporation on all literature, brochures, letterhead
41 and any other materials or publications produced by the corporation and
42 for any other purpose the corporation deems necessary, except that the
43 corporation shall use the name "Kansas tourism corporation" when exe-

1 cutting any documents having legal significance. Any name adopted pur-
2 suant to this subsection may be changed from time to time as the board
3 determines is in the best interests of the corporation.

4 (c) The corporation may participate in joint ventures and collaborate
5 with any taxpayer, governmental body or agency, university and college
6 of the state or any other entity to facilitate any activities or programs
7 consistent with the purpose and intent of this act.

8 (d) In carrying out any activities authorized by this act, the corpora-
9 tion may provide appropriate assistance, including the making of loans
10 and providing time of employees, to any taxpayer, governmental body or
11 agency, university and college of the state or any other entity, whether or
12 not any such taxpayer, governmental body or agency, university and col-
13 lege of the state, or any other entity is owned or controlled in whole or
14 in part, directly or indirectly, by the corporation.

15 (e) Notwithstanding any provision of law to the contrary, the corpo-
16 ration may, on an independent basis for itself invest the funds received
17 from gifts, grants, donations and other operations of the corporation in
18 such investments as would be lawful for a private corporation having
19 purposes similar to the corporation, and in any obligations or securities
20 as authorized by the board. Prior to making any investments, the board
21 shall adopt written investment guidelines.

22 (f) Except as provided in this act, all moneys earned or received by
23 the corporation, including all funds derived from the tourism promotion
24 and development activities conducted by the corporation or from the
25 travel and tourism development fund, shall belong exclusively to the
26 corporation.

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

28 New Sec. 9. (a) The Kansas tourism corporation shall prepare and
29 publish an annual report and present such report to the legislature, the
30 governor and Kansas, Inc. The report shall include detailed information
31 on the operations and transactions conducted pursuant to this act, the
32 distributions from the travel and tourism development fund and the use
33 of corporation income, investments and income tax credits and exemp-
34 tions attributed to Kansas tourism corporation activity.

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

40 New Sec. 10. (a) The Kansas tourism corporation may employ such
41 employees as it may require and upon such terms and conditions as it
42 may establish. The corporation shall establish personnel, payroll, benefit
43 and other such systems as authorized by the board, such systems to be

1 initially established or contracted as designated by the board. The cor-
2 poration shall determine the qualifications and duties of its employees.
3 The board shall develop and adopt policies and procedures that will afford
4 its employees grievance rights, ensure that employment decisions shall
5 be based upon merit and fitness of applicants and shall prohibit discrim-
6 ination because of race, religion, color, sex or national origin.

7 (b) The provisions of article 32 of chapter 75 of the Kansas Statutes
8 Annotated, any acts amendatory thereof or supplemental thereto and any
9 rules and regulations adopted thereunder, shall not apply to members of
10 the board of directors, officers or employees of the Kansas tourism cor-
11 poration. Subject to policies established by the board of directors, the
12 president of the corporation or the president's designee shall be author-
13 ized to approve all travel and travel expenses of such officers and
14 employees.

15 (c) Nothing in this act or any act of which it is amendatory shall be
16 construed as placing any officer or employee of the Kansas tourism cor-
17 poration in the classified service under the Kansas civil service act.

18 New Sec. 11. The corporation may, at the election of the board, af-
19 filiate with the Kansas public employees retirement system with respect
20 to any or all employees employed by the corporation on or after the
21 effective date of this act, in accordance with the provisions of K.S.A. 74-
22 4910, and amendments thereto. The corporation may, at the election of
23 the board, adopt, in accordance with requirements of the federal internal
24 revenue code, a retirement plan or plans sponsored by the corporation
25 with respect to employees employed by the corporation on or after the
26 effective date of this act. The corporation may, at the discretion of the
27 board, provide death and disability benefits as provided in K.S.A. 74-
28 4927a and 74-4927g, and amendments thereto.

29 New Sec. 12. The Kansas tourism corporation shall be exempt from
30 any real and personal property taxes upon any property of the corporation
31 acquired and used for its public purposes, and from any taxes or assess-
32 ments upon any projects or upon any operations of the corporation or
33 the income therefrom, and from any taxes or assessments upon any pro-
34 ject or any property or local obligation acquired or used by the corporation
35 under the provisions of this act or upon the income therefrom. Purchases
36 by the corporation to be used for its public purposes shall not be subject
37 to sales or use tax under K.S.A. 79-3601 et seq., K.S.A. 79-3701 et seq.
38 and subsection (b) of K.S.A. 79-3606, and amendments thereto. The ex-
39 emptions hereby granted shall not extend to persons or entities conduct-
40 ing business on the corporation's property for which payment of state and
41 local taxes would otherwise be required.

42 New Sec. 13. Notwithstanding any other provision of law to the con-
43 trary, the Kansas tourism corporation, its officers, directors, employees

1 and agents shall be subject to and covered by the Kansas tort claims act,
2 K.S.A. 75-6101 et seq., and amendments thereto.

3 New Sec. 14. Nothing in this act should be construed as allowing the
4 board to sell the Kansas tourism corporation or substantially all of the
5 assets of the corporation, or to merge the corporation with another insti-
6 tution, without prior legislative authorization by statute.

7 New Sec. 15. (a) The travel and tourism development fund is hereby
8 created. The travel and tourism development fund shall not be a part of
9 the state treasury and the funds in the travel and tourism development
10 fund shall belong exclusively to the corporation.

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

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

18 (1) The average daily balance of moneys in the travel and tourism
19 development fund for the preceding month; and

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

22 (d) The division of post audit is hereby authorized to conduct a post
23 audit in accordance with the provisions of the state post audit act, K.S.A.
24 46-1106 et seq., and amendments thereto.

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

29 New Sec. 16. (a) The secretary of revenue and the Kansas tourism
30 corporation shall establish the base year taxation for all tourism compa-
31 nies. The secretary of revenue and the corporation may consider any
32 verifiable evidence, including, but not limited to, the NAICS code as-
33 signed or recorded by the department of revenue for companies subject
34 to state sales tax imposed by K.S.A. 79-3603, and amendments thereto,
35 when determining which companies should be classified as tourism
36 companies.

37 (b) On and after July 1, 2009, the state treasurer shall pay quarterly
38 50% of the state sales tax imposed by K.S.A. 79-3603, and amendments
39 thereto, above the base year taxation collected from tourism companies
40 doing business within the state, as certified by the secretary of revenue,
41 to the travel and tourism development fund established by section 15,
42 and amendments thereto. Such payments shall be reconciled on at least
43 an annual basis.

1 New Sec. 17. Each tourism company receiving grants, awards or any
2 other financial assistance, including financing for any tourism develop-
3 ment project, under the provisions of this act shall repay such financial
4 assistance to the corporation, in the amount determined by the corpo-
5 ration, if such tourism company relocates operations, in which the cor-
6 poration invested, outside Kansas within 10 years after receiving such
7 financial assistance. Each such tourism company shall enter into a repay-
8 ment agreement with the corporation specifying the terms of such re-
9 payment obligation.

10 New Sec. 18. (a) The director of accounts and reports shall transfer
11 all balances for all funds or accounts thereof appropriated or reapprop-
12 riated for the department of commerce relating to the powers, duties
13 and functions of the division of travel and tourism development created
14 by K.S.A. 74-5032, and amendments thereto, to the travel and tourism
15 development fund established by section 15, and amendments thereto.

16 (b) All liabilities of the division of travel and tourism development,
17 including accrued compensation or salaries of officers and employees who
18 are transferred to the Kansas tourism corporation under this act, shall be
19 assumed and paid by the Kansas tourism corporation.

20 (c) Except as otherwise provided in sections 19 through 22, and
21 amendments thereto, all of the powers, duties and functions of the exist-
22 ing division of travel and tourism development are hereby transferred to
23 and conferred and imposed upon, the Kansas tourism corporation created
24 by section 4, and amendments thereto, and the division of travel and
25 tourism development is hereby abolished.

26 (d) The provisions of this section shall take effect and be in force on
27 and after January 1, 2010.

28 New Sec. 19. (a) The Kansas tourism corporation created by section
29 4, and amendments thereto, shall be the successor in every way to the
30 powers, duties, and functions of the division of travel and tourism devel-
31 opment created by K.S.A. 74-5032, and amendments thereto, in which
32 the same were vested prior to the effective date of this section and that
33 are transferred pursuant to section 18, and amendments thereto. Every
34 act performed in the exercise of such transferred powers, duties, and
35 functions by or under the corporation pursuant to this act shall be deemed
36 to have the same force and effect as if performed by the division of travel
37 and tourism development in which such powers, duties, and functions
38 were vested prior to the effective date of this section.

39 (b) Whenever the division of travel and tourism development or
40 words of like effect, are referred to or designated by a statute, contract
41 or other document and such reference is in regard to any of the powers,
42 duties or functions transferred to the Kansas tourism corporation pur-
43 suant to section 18, and amendments thereto, such reference or desig-

1 nation shall be deemed to apply to the Kansas tourism corporation.

2 (c) All rules and regulations, orders and directives of the division of
3 travel and tourism development which relate to the functions transferred
4 by section 18, and amendments thereto, and which are in effect on the
5 effective date of this section shall continue to be effective and shall be
6 deemed to be rules and regulations, orders and directives of the Kansas
7 tourism corporation until revised, amended, revoked or nullified pursuant
8 to law.

9 (d) The provisions of this section shall take effect and be in force on
10 and after January 1, 2010.

11 New Sec. 20. (a) When any conflict arises as to the disposition of any
12 property, power, duty, or function or the unexpended balance of any
13 appropriation as a result of any abolition or transfer made by or under
14 this act, such conflict shall be resolved by the governor, whose decision
15 shall be final.

16 (b) The Kansas tourism corporation shall succeed to all property,
17 property rights and records which were used for or pertain to the per-
18 formance of powers, duties and functions transferred to the corporation.
19 Any conflict as to the proper disposition of property, personnel or records
20 arising under this act shall be determined by the governor, whose decision
21 shall be final.

22 (c) The provisions of this section shall take effect and be in force on
23 and after January 1, 2010.

24 New Sec. 21. (a) The Kansas tourism corporation shall have the legal
25 custody of all records, memoranda, writings, entries, prints, representa-
26 tions, electronic data or combinations thereof of any act, transaction, oc-
27 currence or event of the division of travel and tourism development.

28 (b) No suit, action, or other proceeding, judicial or administrative,
29 lawfully commenced, or which could have been commenced, by or against
30 any state agency or program mentioned in this act, or by or against any
31 officer of the state in such officer's official capacity or in relation to the
32 discharge of such officer's official duties, shall abate by reason of the
33 governmental reorganization effected under the provisions of this act. The
34 court may allow any such suit, action, or other proceeding to be main-
35 tained by or against the successor of any such state agency or any officer
36 affected.

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

39 (d) The provisions of this section shall take effect and be in force on
40 and after January 1, 2010.

41 New Sec. 22. (a) All officers and employees of the division of travel
42 and tourism development who, immediately prior to the effective date of
43 this section, are engaged in the exercise and performance of the powers,

1 duties, and functions transferred by section 18, and amendments thereto,
2 as well as all officers and employees of the division of travel and tourism
3 development who are determined by the secretary of commerce to be
4 engaged in providing administrative, technical, or other support services
5 that are essential to the exercise and performance of the powers, duties,
6 and functions transferred by section 18, and amendments thereto, are
7 hereby transferred to the Kansas tourism corporation. All such employees
8 so transferred shall be deemed unclassified employees upon the effective
9 date of this section regardless of such employees' classification prior to
10 the effective date of this section *retain such employee's classification*
11 *status under the Kansas civil service act.*

12 (b) Officers and employees of the division of travel and tourism de-
13 velopment transferred by subsection (a) shall retain all retirement ben-
14 efits and leave balances and rights which had accrued or vested prior to
15 the date of transfer. The service of each such officer and employee so
16 transferred shall be deemed to have been continuous.

17 (c) The provisions of this section shall take effect and be in force on
18 and after January 1, 2010.

19 New Sec. 23. (a) On January 1, 2010, the director of accounts and
20 reports shall transfer any remaining balance in the state tourism fund
21 established by K.S.A. 74-9003, and amendments thereto, to the travel and
22 tourism development fund established by section 15, and amendments
23 thereto.

24 (b) On January 1, 2010, all liabilities of the state tourism fund are
25 hereby imposed on the travel and tourism development fund, and the
26 state tourism fund and the council on travel and tourism created by K.S.A.
27 74-9001, and amendments thereto, are hereby abolished.

28 New Sec. 24. (a) On January 1, 2010, the director of accounts and
29 reports shall transfer any remaining balance in the Kansas tourist attrac-
30 tion matching grant development fund established by K.S.A. 74-5091, and
31 amendments thereto, to the travel and tourism development fund estab-
32 lished by section 15, and amendments thereto.

33 (b) On January 1, 2010, all liabilities of the Kansas tourist attraction
34 matching grant development fund are hereby imposed on the travel and
35 tourism development fund, and the Kansas tourist attraction matching
36 grant development fund and the state matching grant program estab-
37 lished by K.S.A. 74-5089, and amendments thereto, are hereby abolished.

38 New Sec. 25. Insofar as the provisions of this act are inconsistent
39 with the provisions of any other law, general, specific or local, the pro-
40 visions of this act shall be controlling.

41 New Sec. 26. The corporation is exempt from the provisions of
42 K.S.A. 12-1675 through 12-1677, 45-401 through 45-413, 75-2925
43 through 75-2975, 75-3701 through 75-37,119, 75-4362, 75-4701 through

1 75-4717 and 77-501 through 77-550, and amendments thereto.

2 New Sec. 27. If any provision of this act, or the acts contained in this
3 act, or the application thereof is held invalid, the invalidity shall not affect
4 other provisions or applications of the act, or the acts contained in this
5 act, which can be given effect without the invalid provision or application,
6 and to this end the provisions of this act, and the acts contained in this
7 act, are severable.

8 New Sec. 28. The provisions of sections 1 through 28, and amend-
9 ments thereto, shall expire on and after July 1, 2014. The provisions of
10 sections 1 through 28, and amendments thereto, shall be reviewed by the
11 legislature prior to July 1, 2014.

12 Sec. 29. On and after January 1, 2010, K.S.A. 73-2103 is hereby
13 amended to read as follows: 73-2103. (a) In fulfilling its responsibilities,
14 the Eisenhower centennial commission shall consult, cooperate with and
15 seek advice from appropriate state departments and agencies, local public
16 bodies, learned societies, and historical, patriotic, philanthropic, civil, pro-
17 fessional and related organizations. State departments and agencies may
18 cooperate with the commission in planning, encouraging, developing and
19 coordinating appropriate commemorative activities.

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

24 (c) The state historical society and the state librarian shall cooperate
25 with the commission, especially in the development and display of exhibits
26 and collections and in the development of bibliographies, catalogs and
27 other materials relevant to the period of the life of Dwight D.
28 Eisenhower.

29 (d) The ~~secretary of commerce~~ *Kansas tourism corporation* shall co-
30 operate with the commission, especially in encouraging ~~through the di-~~
31 ~~vision of travel and tourism development~~, visitors to the state to learn
32 more about Dwight D. Eisenhower and his Kansas roots.

33 Sec. 30. On and after January 1, 2010, K.S.A. 2008 Supp. 73-2402 is
34 hereby amended to read as follows: 73-2402. (a) There is hereby created
35 an advisory committee to assist in the work of the Kansas territorial ses-
36 quicentennial commission. The advisory committee shall be composed of
37 the following members:

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

40 (2) the director of the Kansas humanities council or the director's
41 designee;

42 (3) the director of the Kansas arts commission or the director's
43 designee;

- 1 (4) ~~the director of the division of travel and tourism development of~~
2 ~~the department of commerce or the director's designee~~ *president of the*
3 *Kansas tourism corporation or the president's designee;*
- 4 (5) the commissioner of education or the commissioner's designee;
- 5 (6) fifteen members appointed by the governor as follows: (A) Six
6 members of history faculties of universities under the supervision of the
7 state board of regents; (B) six members of history faculties of community
8 colleges or private colleges or universities in the state; (C) a representative
9 of the travel industry association of Kansas; (D) a representative of the
10 Kansas museums association; and (E) a representative of the territorial
11 Kansas heritage alliance;
- 12 (7) two members appointed by the speaker of the house of
13 representatives;
- 14 (8) two members appointed by the minority leader of the house of
15 representatives;
- 16 (9) two members appointed by the president of the senate; and
- 17 (10) two members appointed by the minority leader of the senate.
- 18 (b) The chairperson of the advisory committee shall appoint a person
19 to serve as secretary of the committee.
- 20 (c) Members of the advisory committee shall serve without compen-
21 sation or reimbursement of expenses.
- 22 Sec. 31. On and after January 1, 2010, K.S.A. 2008 Supp. 73-2404 is
23 hereby amended to read as follows: 73-2404. (a) In fulfilling its respon-
24 sibilities, the Kansas territorial sesquicentennial commission shall consult,
25 cooperate with and seek advice from appropriate state agencies, local and
26 public bodies, learned societies and historical, patriotic, philanthropic,
27 civil, professional and related organizations. State agencies shall cooperate
28 with the commission in planning, encouraging, developing and coordi-
29 nating appropriate commemorative activities.
- 30 (b) The chief executive officer of each state university shall cooperate
31 with the commission, especially in the encouragement and coordination
32 of scholarly works and presentations on the history, culture and political
33 activities related to the territorial period in Kansas history.
- 34 (c) The state historical society and the state librarian shall cooperate
35 with the commission, especially in the development and displays of ex-
36 hibits and collections and in the development of bibliographies, catalogs
37 and other materials relevant to the territorial period.
- 38 (d) ~~The division of travel and tourism development of the department~~
39 ~~of commerce~~ *Kansas tourism corporation* shall cooperate with the com-
40 mission in marketing to potential visitors to the state commemorative
41 activities enabling visitors to experience the cultural heritage of Kansas.
- 42 Sec. 32. On and after January 1, 2010, K.S.A. 2008 Supp. 74-5005 is
43 hereby amended to read as follows: 74-5005. The department shall be

1 the lead agency of the state for economic development of commerce
2 through the promotion of business, industry, trade and tourism within
3 the state. In general, but not by way of limitation, the department shall
4 have, exercise and perform the following powers and duties:

5 (a) To assume central responsibility for implementing all facets of a
6 comprehensive, long-term, economic development strategy and for co-
7 ordinating the efforts of both state agencies and local economic devel-
8 opment groups as they relate to that objective;

9 (b) to coordinate the implementation of the strategy with all other
10 state and local agencies and offices and state educational institutions
11 which do research work, develop materials and programs, gather statistics;
12 or which perform functions related to economic development; and such
13 state and local agencies and offices and state educational institutions shall
14 advise and cooperate with the department in the planning and accom-
15 plishment of the purposes of this act;

16 (c) to advise and cooperate with all federal departments, research
17 institutions, educational institutions and agencies, quasi-public profes-
18 sional societies, private business and agricultural organizations and asso-
19 ciations, and any other party, public or private, and to call upon such
20 parties for consultation, and assistance in their respective fields of inter-
21 est, to the end that all up to date available technical advice, information
22 and assistance be gathered for the use of the department, the governor,
23 the legislature, and the people of this state;

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

26 (e) to conduct an effective business information service, keeping up
27 to date information on such things as manufacturing industries, labor
28 supply and economic trends in employment, income, savings and pur-
29 chasing power within the state, utilizing the services and information
30 available from the division of the budget of the department of
31 administration;

32 (f) to support a coordinated program of scientific and industrial re-
33 search with the objective of developing additional uses of the state's nat-
34 ural resources, agriculture, agricultural products, new and better indus-
35 trial products and processes, and the best possible utilization of the raw
36 materials in the state; and to coordinate this responsibility with the state
37 educational institutions, with all state and federal agencies, and all public
38 and private institutions within or outside the state, all in an effort to assist
39 and encourage new industries or expansion of existing industries through
40 basic research, applied research and new development;

41 (g) to maintain and keep current all available information regarding
42 the industrial opportunities and possibilities of the state, including raw
43 materials and by-products; power and water resources; transportation fa-

1 cilities; available markets and the marketing limitations of the state; labor
2 supply; banking and financing facilities; availability of industrial sites; and
3 the advantages the state and its particular sections have as industrial lo-
4 cations; and such information shall be used for the encouragement of new
5 industries in the state and the expansion of existing industries within the
6 state;

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

10 (i) to establish a clearinghouse for the collection and dissemination
11 of information concerning the number and location of public and private
12 postsecondary vocational and technical education programs in areas crit-
13 ical to economic development;

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

17 ~~(k) to encourage and promote the traveling public to visit this state
18 by publicizing information as to the recreational, historic and natural ad-
19 vantages of the state and its facilities for transient travel and to contract
20 with organizations for the purpose of promoting tourism within the state;
21 and the department may request other state agencies such as, but not
22 limited to, the Kansas water office, the Kansas department of wildlife and
23 parks and the department of transportation, for assistance and all such
24 agencies shall coordinate information and their respective efforts with the
25 department to most efficiently and economically carry out the purpose
26 and intent of this subsection;~~

27 ~~(l)~~ to participate in economic development and planning assistance
28 programs of the federal government to political subdivisions;

29 ~~(m)~~ (l) to assist counties and cities in industrial development through
30 the establishment of industrial development corporations, including site
31 surveys, small business administration situations, and render such other
32 similar assistance as may be required; and in those instances where it is
33 deemed appropriate, to contract with and make a service charge to the
34 county or city involved for such services rendered;

35 ~~(n)~~ (m) to render assistance to private enterprise on planning prob-
36 lems and site surveys upon request and shall make a reasonable service
37 charge for such services rendered; and any moneys received for services
38 rendered, as provided in this subsection, shall be deposited in the fund
39 and expended therefrom, as provided in subsection ~~(o)~~ (n);

40 ~~(o)~~ (n) to make agreements with other states and with the United
41 States government, or its agencies, and to accept funds from the federal
42 government, or its agencies, or any other source for research studies,
43 investigation, planning and other purposes related to the duties of the

1 department; and any funds so received shall be remitted to the state
2 treasurer in accordance with the provisions of K.S.A. 75-4215, and
3 amendments thereto. Upon receipt of each such remittance, the state
4 treasurer shall deposit the entire amount in the state treasury to the credit
5 of a special revenue fund which is hereby created and shall be known as
6 the “economic development fund” or used in accordance with or direc-
7 tion of the contributing federal agencies; and expenditures from such
8 fund may be made for any purpose in keeping with the responsibilities,
9 functions and authority of the department; and warrants on such fund
10 shall be drawn in the same manner as required of other state agencies
11 upon vouchers signed by the secretary;

12 ~~(p)~~ (o) to do other and further acts as shall be necessary and proper
13 in fostering and promoting the industrial development and economic wel-
14 fare of the state;

15 ~~(q)~~ (p) to organize, or cause to be organized, an advisory board or
16 boards representing interested groups, including industry, labor, agricul-
17 ture, scientific research, the press, the professions, industrial associations,
18 civic groups, etc.; and such board or boards shall advise with the depart-
19 ment as to its work and the department shall, as far as practicable, co-
20 operate with such board or boards, and secure the active aid thereof in
21 the accomplishment of the aims and objectives of the department;

22 ~~(r)~~ (q) to perform the duties imposed under the Kansas venture cap-
23 ital company act;

24 ~~(s)~~ (r) to serve as the central agency and clearinghouse to collect and
25 disseminate ideas and information bearing on local planning problems;
26 and, in so doing, the department, upon request of the board of county
27 commissioners of any county or the governing body of any city in the
28 state, may make a study and report upon any planning problem of such
29 county or city submitted to it;

30 ~~(t)~~ (s) to disseminate to the public information concerning economic
31 development programs available in the state, regardless of whether such
32 programs are administered by the department or some other agency and
33 the department shall make available audio-visual and written materials
34 describing the economic development programs to local chambers of
35 commerce, economic development organizations, banks and public li-
36 braries and shall take other measures as may be necessary to effectuate
37 the purpose of this subsection; and

38 ~~(u)~~ (t) to perform the duties imposed under the individual develop-
39 ment account program act, K.S.A. 2008 Supp. 74-50,201 through 74-
40 50,208, and amendments thereto.

41 Sec. 33. K.S.A. 2008 Supp. 79-3620 is hereby amended to read as
42 follows: 79-3620. (a) All revenue collected or received by the director of
43 taxation from the taxes imposed by this act shall be remitted to the state

1 treasurer in accordance with the provisions of K.S.A. 75-4215, and
2 amendments thereto. Upon receipt of each such remittance, the state
3 treasurer shall deposit the entire amount in the state treasury, less
4 amounts withheld as provided in subsection (b) ~~and~~, amounts credited as
5 provided in subsection (c) and (d) *and amounts paid as provided in sub-*
6 *section (e)*, to the credit of the state general fund.

7 (b) A refund fund, designated as “sales tax refund fund” not to exceed
8 \$100,000 shall be set apart and maintained by the director from sales tax
9 collections and estimated tax collections and held by the state treasurer
10 for prompt payment of all sales tax refunds including refunds authorized
11 under the provisions of K.S.A. 79-3635, and amendments thereto. Such
12 fund shall be in such amount, within the limit set by this section, as the
13 director shall determine is necessary to meet current refunding require-
14 ments under this act. In the event such fund as established by this section
15 is, at any time, insufficient to provide for the payment of refunds due
16 claimants thereof, the director shall certify the amount of additional funds
17 required to the director of accounts and reports who shall promptly trans-
18 fer the required amount from the state general fund to the sales tax refund
19 fund, and notify the state treasurer, who shall make proper entry in the
20 records.

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

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

31 (3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the rev-
32 enue collected and received from the tax imposed by K.S.A. 79-3603, and
33 amendments thereto, at the rate of 5.3%, and deposited as provided by
34 subsection (a), exclusive of amounts credited pursuant to subsection (d),
35 in the state highway fund.

36 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the rev-
37 enue collected and received from the tax imposed by K.S.A. 79-3603, and
38 amendments thereto, at the rate of 5.3%, and deposited as provided by
39 subsection (a), exclusive of amounts credited pursuant to subsection (d),
40 in the state highway fund.

41 (d) The state treasurer shall credit all revenue collected or received
42 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
43 certified by the director, from taxpayers doing business within that por-

1 tion of a redevelopment district occupied by a redevelopment project or
2 taxpayers doing business with such entity financed by a special bond pro-
3 ject as defined in K.S.A. 12-1770a, and amendments thereto, that was
4 determined by the secretary of commerce to be of statewide as well as
5 local importance or will create a major tourism area for the state or the
6 project was designated as a special bond project as defined in K.S.A. 12-
7 1770a, and amendments thereto, to the city bond finance fund, which
8 fund is hereby created. The provisions of this subsection shall expire when
9 the total of all amounts credited hereunder and under subsection (d) of
10 K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special
11 obligation bonds issued for the purpose of financing all or a portion of
12 the costs of such redevelopment or special bond project.

13 *(e) The state treasurer shall pay 50% of the state sales tax imposed*
14 *by K.S.A. 79-3603, and amendments thereto, above the base year taxation*
15 *collected from tourism companies doing business within the state, as cer-*
16 *tified by the secretary of revenue, to the travel and tourism development*
17 *fund established by section 15, and amendments thereto, in accordance*
18 *with the provisions of section 16, and amendments thereto, exclusive of*
19 *amounts credited pursuant to subsections (c) and (d).*

20 Sec. 34. K.S.A. 2008 Supp. 79-3620 is hereby repealed.

21 Sec. 35. On and after January 1, 2010, K.S.A. 73-2103, 74-5032, 74-
22 5032a and 74-5090 and K.S.A. 2008 Supp. 73-2402, 73-2404, 74-5005,
23 74-5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005 are
24 hereby repealed.

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