

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by Representative Robert H. Miller at
Chairperson1:30 a.m./p.m. on March 28, 1985 in room 526S of the Capitol.

All members were present except:

Representative J.C. Long - E

Committee staff present:

Lynda Hutfles, Secretary
Russ Mills, Research Department

Conferees appearing before the committee:

Chris McKenzie, League of Kansas Municipalities
John Smith, Division of Motor Vehicles
John Lamb, ABC
Representative Ron Fox
Lynn Burris, State Park & Resources Authority

The meeting was called to order by Chairman Miller.

Representative Roenbaugh made a motion, seconded by Representative Sallee, to approve the minutes of the March 28 meeting. The motion carried.HB2451 - Procedure for enforcement of municipal traffic regulations and traffic infractionsChris McKenzie, League of Kansas Municipalities, explained the bill which was requested by the League to deal with a number of questions and problems that have arisen since the enactment of 1984 SB490. See attachment A.

There was discussion about the number of out of state people who don't appear in municipal court for traffic offenses. 70-80% of all traffic offenses are prosecuted in municipal court.

John Smith, Division of Motor Vehicles, told the committee how passage of this bill will effect the motor vehicle division.

Hearings on HB2451 were concluded.

SB268 - Law enforcement powers of ABC agentsJohn Lamb, ABC, gave testimony in support of the bill which allows ABC enforcement officers to issue "notices to appear" as well as enforce criminal laws during routine performance of their duties. See attachment B. It was suggested that the effective date of the bill be excellerated to July 1.

Hearings on SB268 were concluded.

HB2576 - Hillsdale Park removed from state park system

Representative Ron Fox told the committee he needed to clarify that it was not his intent to remove all of Hillsdale from the State Park Syster; therefore, he offered an amendment to clarify that it was only the Jayhawk area and the North and South Tecumseh areas of Hillsdale that he wanted removed from the Park System. These areas need to be taken out of the system so that a private developer can be given the opportunity to develop the areas. The areas can be brought back into the system by an act of the Legislature at anytime they deem necessary.

Lynn Burris, State Park & Resources Authority, gave his support of the bill with the amendment.

Hearings were concluded on HB2576.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,
room 526S, Statehouse, at 1:30 a.m./p.m. on March 28, 19 85

SB269 - Foreign purchases of alcoholic liquor by individuals;
tax payment

John Lamb, ABC, gave testimony in support of the bill which places a limitation of one gallon of spirits which may be imported from outside the U.S.A. by individuals for personal use without tax or permit. See attachment C.

Hearings were concluded on SB269.

HB2153 - Plumbing standards and licensure of plumbers

Representative Aylward made a motion, seconded by Representative Eckert, to remove HB2153 from the table. The motion carried.

Representative Eckert made a motion, seconded by Representative Barr, to amend the bill as contained in the balloon. See attachment D. The motion carried.

Representative Aylward made a motion, seconded by Representative Eckert, to recommend HB2153 favorable for passage as amended. The motion carried.

HB2237 - Electrical standards and licensure of electricians

Representative Aylward made a motion, seconded by Representative Eckert, to remove HB2237 from the table. The motion carried.

Representative Eckert made a motion, seconded by Representative Aylward, to adopt the balloon as an amendment to HB2237. See attachment F. The motion carried. Arch. E

Representative Aylward Made a motion, seconded by Representative Eckert, to report HB2237 favorable as amended. The motion carried.

HB2250 - Alcoholic beverage control rules and regulations adopted
by secretary of revenue

Representative Vancrum made a motion, seconded by Representative Long, to report HB2250 favorable for passage. The motion carried.

Representative Vancrum made a motion, seconded by Representative Barr, to introduce as a committee bill the attached amendment dealing with decommis- sioning which was drawn up as an amendment to HB2202. See attachment F. The motion carried.

HB2241 - Reporting of burn wounds to state fire marshal

Representative Aylward made a motion, seconded by Representative Barr, to report HB2241 favorable for passage. The motion carried.

The meeting was adjourned.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL / 112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: House Committee on Transportation
FROM: Chris McKenzie, Attorney/Director of Research
DATE: March 28, 1985
SUBJECT: Explanation of HB 2451

HB 2451 was introduced by the House Committee on Transportation at the request of the League of Kansas Municipalities to deal with a number of questions and problems that have arisen since the enactment of 1984 SB 490. SB 490, which was effective January 1, 1985, created a new category of traffic offense called a "traffic infraction." The 130 traffic offenses classified as traffic infractions by SB 490 are required to be classified as "ordinance traffic infractions" by cities which adopt ordinances prohibiting the same traffic offenses. Under SB 490 state and municipal courts are required to give an accused person an opportunity to pay a fixed fine and court costs by mail when they have committed what the new law classifies as a "traffic infraction" or "ordinance traffic infraction." Further information on SB 490 is attached to this memorandum.

Section 1. This section of the bill is designed to give guidance to municipal officials concerning the contents of municipal notices to appear in order to carry out the intent of SB 490. The provisions of New Section 1 are virtually identical to those contained in subsection (e) of K.S.A. 1984 Supp. 8-2106, part of 1984 SB 490, which deals with the required contents of a notice to appear given to a person who is charged with a violation of a state "traffic infraction." The main difference between New Section 1 and subsection (e) of K.S.A. 1984 Supp. 8-2106 is that New Section 1 authorizes a municipal law enforcement officer, in lieu of entering the appropriate fine for an ordinance traffic infraction on the notice to appear, to either direct the person charged with the ordinance traffic infraction to contact the clerk of the municipal court to determine the applicable fine or provide the person charged with a copy of the fine schedule established by the municipal judge. Before the enactment of SB 490 many cities were already treating many traffic offenses similar to traffic infractions in that a person was authorized to pay their fine by mail if they contacted the municipal court clerk to determine the amount of the fine. This section simply preserves what is an existing local procedure which has proven to work well.

Section 2. This section of the bill amends K.S.A. 1984 Supp. 8-2110, which concerns suspensions for failure to appear for a traffic offense, to deal with the problem which has arisen since the issuance of an Attorney General's opinion in May of 1984. That Opinion, No. 84-43, concluded that a municipal court could not request the Division of Motor Vehicles to suspend the

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3/29/85

Attach
A

license of a violator who fails to appear in municipal court because K.S.A. 1984 8-2110 does not specifically refer to municipal courts. The amendment contained in Section 2 would specifically make reference to municipal courts, thereby allowing the municipal courts to take advantage of the same opportunity available in district courts for individuals who fail to appear. Since the vast majority of traffic offenses are prosecuted in municipal court, the League of Kansas Municipalities recommended this change in order to effectively deal with individuals who fail to appear. There was testimony by a municipal prosecutor before the Committee indicating that failure to appear is a serious problem in municipal courts.

Section 3. This section amends the arrest provisions contained in the Municipal Court Procedure Act at K.S.A. 1984 Supp. 12-4212. The amendment is contained in lines 101-102 and is designed to deal with the problem which has developed with individuals who commit an ordinance traffic infraction but who refuse to give a written promise to appear. Under current law, a police officer may not arrest a person who is only charged with committing an ordinance traffic infraction unless the person charged has received service of a notice to appear and has failed to appear. A police officer simply has no recourse in situations in which a person who is charged refuses to give their written promise to appear. That person, under current law, is free to go down the road. This could develop to be an even bigger problem in our border cities in dealing with out-of-state drivers who refuse to give a written promise to appear. There is serious question whether the license suspension procedures of the nonresident motor vehicles compact would allow the State of Kansas to request the home state of such a violator to suspend that person's license.

Section 4. This section amends K.S.A. 1984 Supp. 12-4305 to make its provisions concerning mandatory appearances in municipal court compatible with those set out and applicable to district court in subsection (d) of K.S.A. 1984 Supp. 8-2104.

Section 5. This section amends K.S.A. 12-4516, concerning expungement of convictions in municipal courts, to make its provisions compatible with the provisions of K.S.A. 1984 Supp. 21-4619, which concerns expungement of convictions by district courts and was amended by 1984 SB 490.

Ordinance Traffic Infractions: A Review for Municipal Officials

On January 1, 1985, the new state traffic infraction law (SB 490, L. 1984, ch. 39) took effect, requiring a special treatment of 130 traffic offenses considered by the legislature to be minor enough to be handled without a court appearance. Under that law state and municipal courts are required to give an accused person an opportunity to pay a fixed fine and court costs by mail when they have committed what the new law classifies as a "traffic infraction." Traffic offenses classified as traffic infractions by the new state law are required to be classified as ordinance traffic infractions by cities which adopt ordinances prohibiting the same traffic offenses. (A list of ordinance traffic infractions with their corresponding state statutory citation appears in the appendix of the 1985 edition of the Standard Traffic Ordinance for Kansas Cities, published by the League of Kansas Municipalities.)

SB 490 amends K.S.A. 12-4305 to provide that the municipal judge *shall* establish a schedule of fines which shall be imposed for violation of traffic offenses classified as ordinance traffic infractions. Cities may establish fines for ordinance traffic infractions which differ from those established by state law. The judge also *may* establish a schedule of fines for the violation of other traffic offenses. The fine established by the judge in the fine schedule must be within the minimum and maximum allowable fines established by ordinance. The penalty for violation of traffic offenses not classified as traffic infractions or for which a scheduled fine has not been established, is contained in the general penalty section

(Sec. 201(c)) of the Standard Traffic Ordinance for Kansas Cities.

Under the procedures set out in SB 490, a person accused of an ordinance traffic infraction is to be notified of the amount of fine established for that offense and any court costs (cities may impose court costs pursuant to a charter ordinance). The accused cannot be arrested nor can a warrant be issued against the accused if charged only with an ordinance traffic infraction, unless he or she has received service of notice to appear for the ordinance traffic infraction and has failed to appear. If the accused chooses to plead guilty or no contest and waive the right to trial, he or she may pay the scheduled fine and court costs in person or by mail. If payment is made without executing the plea of guilty or no contest and waiver of trial, which is to be included in the notice to appear, the payment is considered to be a plea of no contest and waiver of the right to trial. If the check is not honored for any reason, or if the fine and court costs are not paid in full, the traffic citation remains outstanding.

The fine established in the fine schedule does not apply if the accused makes a court appearance and pleads not guilty. If the accused goes to trial and is convicted, the judge may impose a fine which under state law may not exceed \$500. In municipal court the maximum amount of the fine for conviction is left to the discretion of the governing body and may be less than \$500. No term of imprisonment may be imposed upon conviction of an ordinance traffic infraction, and the accused may appeal the conviction to

district court where he or she may request a jury trial.

Under SB 490 certain offenses may *not* be included in a schedule of fines: (a) reckless driving; (b) driving while under the influence of alcohol or drugs; (c) driving without a valid license issued or on a suspended or revoked license; and (d) offenses arising from a motor vehicle collision or accident. In addition, a number of other state traffic offenses were not classified by SB 490 as traffic infractions, and are not included in the state fine schedule. Cities are not prohibited, however, from including such offenses in a schedule of fines, but they should not be classified as ordinance traffic infractions. These offenses include: (a) failure to obey a police officer; (b) defacing traffic control devices; (c) driving a prohibited vehicle on a controlled access highway; (d) walking on a highway while under the influence of alcohol; (e) drag racing; (f) failure to stop or give accurate information when involved in an accident; (g) selling bald tires; (h) failure to equip a motor vehicle with safety glazing material; and (i) unsafe transportation of hazardous material.

In order to respond to the requirements of SB 490, cities must revise the notice to appear (or combined complaint and notice to appear) form to provide the following information:

✓ A place where the police officer shall enter the fine established by the fine schedule for the ordinance traffic infraction and any applicable court costs;

✓ A place where the person may make a written entry of appearance, waive the right to trial, and plead guilty or no contest; and

✓ An explanation of the person's right to appear, their right to trial, their right to appear to pay the scheduled fine and court costs prior to the appearance date, and that failure to pay the fine and court costs or appear at the specified time may result in the issuance of a warrant for the accused person's arrest. This information also may be provided in a *separate form* if it is not provided in the notice to appear. The police officer also must provide the person with the address of the court to which the written entry of appearance, waiver of trial, plea of guilty or no contest, and payment of fine and court costs shall be mailed.

The League has revised the 1985 edition of the Standard Traffic Ordinance for Kansas Cities to comply with the requirements of SB 490. For more information on the new law and the steps that cities must take in order to comply with its provisions, see the "Manual of Procedure for Incorporating by Reference the Standard Traffic Ordinance for Kansas Cities," available from the League, and the article entitled "Traffic Infractions Come to Kansas" appearing on page 222 of the July 1984 issue of the *Journal*.

MEMORANDUM

TO: Honorable Robert H. Miller
Chairperson, House Federal and State Affairs Committee

FROM: JOHN A. LAMB, Director, ABC Division

RE: Senate Bill 268, as amended

DATE: March 28, 1985

BRIEF OF BILL:

Senate Bill 268 as amended by the Federal and State Affairs Committee allows ABC Enforcement Officers to issue "Notices to Appear" as well as enforce criminal laws during routine performance of their duties.

ADMINISTRATIVE COMMENTS:

1. Agents have since the inception of the ABC been authorized to make arrests and carry firearms.
2. Agents are required to attend the Law Enforcement Training Center and receive 320 hours mandatory police training. These agents are also required to receive the additional 40 hours of training or education in law enforcement matters annually as required by law. K.S.A. 74-5601 et al.
3. Agents will not be asked or required to work in areas not directly related to liquor and cereal malt beverage violations.
4. By allowing the ABC Enforcement Officers the authority to write "Notice to Appear" (Tickets), it will save time. Time and extra travel will be eliminated in that the arrested person need not be transported to the county jail for booking.
5. Currently, ABC Agents do not have specific authority to issue "Notices to Appear" (See attached letter from Lowell Long) for liquor violations.
6. This bill will authorize agents who are currently certified law enforcement officers to take action when observing drug activity, prostitution or gambling while making routine inspections of private clubs or on under-cover assignments. This legislation will also clarify the enforcement officers' role pertaining to a robbery in progress, burglary in progress, felonious assault, etc. If S.B. 268 is passed, it would give ABC Agents clear authority to take whatever action is necessary and appropriate when confronted with any criminal activity that the agent encounters during his regular duties as an agent.


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Attach B

Representative Miller
Senate Bill 268
March 28, 1985

7. On several occasions, agents who were on surveillance duty monitoring retail liquor stores for sales to minors witnessed armed robberies. Fortunately, in those instances, the agent was not in a position to be able to stop the robbery or apprehend the suspect. If an agent were forced to take immediate action to protect a liquor store clerk, innocent bystander, etc., it is not at all clear under the present law whether or not he has the authority to do so. If the agent acts, or fails to act, and anybody is injured as a result, the agent and the state could be faced with civil and criminal liabilities.

LEGAL IMPACT:

This bill, if adopted, would clarify the authority and duties of the ABC Agents. Currently, they are described in the statutes as "peace and police officers." This phrase is hazy in regards to authority beyond enforcement of the Liquor Control Act. By clarifying these matters now, Senate Bill 268 would hopefully avoid litigation when an ABC Agents acts or fails to act in a particular situation.



JOHN A. LAMB, DIRECTOR

JAL:cjk
Attachment



Hodson
ED
CAL
101

State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612

(913) 296-2256

February 14, 1985

Mr. Richard Hodson
Assistant Attorney General
Office of Attorney General
Judicial Center
Topeka, Kansas 66612

Dear Mr. Hodson:

SB 268



If your proposed new statute, 41-201a, is adopted with the language you propose, it would be our opinion that this would permit ABC agents to use the NTA short forms for liquor law violations that are misdemeanors.

A preferable addition in the view of our attorney would be to track the language of K.S.A. 22-2408 and specifically identify ABC agents as having authority to issue a written notice to appear.

Thank you for the opportunity to look at the draft language.

Sincerely yours,

A handwritten signature in cursive script that reads "Lowell Long".

Lowell Long
Case Management Specialist

LL:dm

cc: Howard Schwartz
Marjorie Van Buren

MEMORANDUM

TO: Representative Robert H. Miller
House Federal and State Affairs Committee

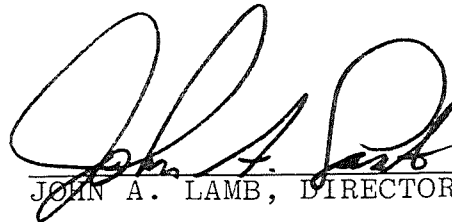
FROM: JOHN A. LAMB, Director, ABC Division

RE: Senate Bill 269

DATE: March 28, 1985

I have attached a summary prepared by our office from information supplied by the Distilled Spirits Council of the United States. The summary outlines state requirements of the quantity of spirits which may be imported by individuals for personal use without tax or permit.

The Senate Committee placed a limitation of one gallon in possession that can be imported at any one time for personal use. The Federal regulations allow one liter duty free.



JOHN A. LAMB, DIRECTOR

JAL:cjk

3/28/85
Attach C

MEMORANDUM

TO: Director

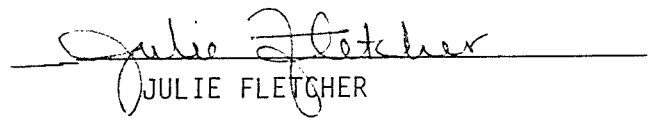
FROM: Julie Fletcher

RE: Summary of State Regulations of the Quantity of Spirits Which May be Imported by Individuals for Personal Use Without Tax or Permit.

- ALABAMA - None
- ALASKA - "reasonable quantity"
- ARIZONA - amount admitted U.S. duty free if from a foreign country and brought in by an adult.
- ARKANSAS - None
- CALIFORNIA - amount exempt from duty by U.S. if in possession of adult from without the U.S.; exceptions: certain members of the armed forces may ship to the U.S. 1 gallon tax free; an adult on a charter flight originating and terminating in U.S. may import not over 1 quart per year.
- COLORADO - 1 gallon or 4 liters by a passenger 21 or older arriving on a plane from a foreign country and clearing customs at Colorado port.
- CONNECTICUT: - 4 gallons in possession; 5 gallons every 60 days with payment of state sales tax.
- DELAWARE - amount that does not exceed the amount allowed by federal statutes governing importation into the U.S.; 1 quart per day per person if imported via automobile across state line.
- DISTRICT OF COLUMBIA - 1 quart per month if by public or common carrier; 1 gallon any one time if by other means.
- FLORIDA - 1 gallon in possession (cannot ship in).
- GEORGIA - $\frac{1}{2}$ gallon or nearest metric equivalent.
- HAWAII - 1 gallon in possession.
- IDAHO - 2 quarts
- ILLINOIS - 1 gallon per year.
- INDIANA - 1 quart in possession.
- IOWA - 1 quart U.S. or 1 gallon.

KANSAS	- None
KENTUCKY	- None
LOUISIANA	- None
MAINE	- 4 quarts
MARYLAND	- 1 quart at a time, but not over 2 quarts a month; 1 gallon in possession; 1 gallon from the U.S., Virgin Islands, American Samoa or Guam.
MASSACHUSETTS	- None
MICHIGAN	- 1 quart; by adult re-entering state from abroad after 48 hours, in possession, amount admitted U.S. duty free.
MINNESOTA	- 1 quart from another state; 1 gallon from a foreign country.
MISSISSIPPI	- None
MISSOURI	- 5 gallons
MONTANA	- 3 gallons in possession.
NEBRASKA	- No limitation.
NEVADA	- 1 gallon a month from another state; any which is exempted from federal import duty.
NEW HAMPSHIRE	- 3 quarts in possession.
NEW JERSEY	- 2 quarts distilled spirits or 1 gallon wine each 24 hours; Special permit at \$5.00 fee to import more, plus state tax.
NEW MEXICO	- "reasonable" amount by an adult.
NEW YORK	- 1 quart
NORTH CAROLINA	- 4 liters in possession.
NORTH DAKOTA	- None
OHIO	- 1 quart (or 1 gallon if from Virgin Islands, Guam, or American Samoa) the month in possession by 21 year old person if a resident or a member of U.S. Armed Forces, or if outside U.S. for over 48 hours.
OKLAHOMA	- 750 ml
OREGON	- 2 liters in possession.

- PENNSYLVANIA - 1 gallon in possession if purchased personally in a foreign country if admitted U.S. duty free.
- RHODE ISLAND - 3 gallons, but must be declared to and approved by the Administrator (of Liquor Control).
- SOUTH CAROLINA - to value of \$20 cost in possession from outside continental U.S.
- SOUTH DAKOTA - 1 gallon or less per person for personal use if 21 or over.
- TENNESSEE - None
- TEXAS - 1 quart may be imported for personal use without a permit, but not without tax liability.
- UTAH - None
- VERMONT - 2 gallons in possession.
- VIRGINIA - 1 gallon in possession.
- WASHINGTON - from without U.S. by adult in possession amount admitted U.S. duty free.
- WEST VIRGINIA - 1 gallon in possession.
- WISCONSIN - 1 gallon by adult in possession arriving from a foreign country after 48 hours.
- WYOMING - 3 quarts.


JULIE FLETCHER

JF:bf

HOUSE BILL No. 2153

By Representatives Aylward and B. Ott

2-1

0017 AN ACT enacting the Kansas plumbing licensure act.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. In order to safeguard life, health and property,
 0020 and to promote the public welfare, any person in either public or
 0021 private capacity, practicing or offering to practice as a plumbing
 0022 contractor, master plumber or journeyman plumber shall be
 0023 required to submit evidence of qualification to practice and shall
 0024 be licensed as provided in this act. It shall be unlawful for any
 0025 person to practice as a plumbing contractor, master plumber or
 0026 journeyman plumber, as defined in section 2, in this state, or to
 0027 use in connection with such person's name or advertise any title
 0028 or description tending to convey an impression that such person
 0029 is a plumbing contractor, master plumber or journeyman
 0030 plumber unless such person has been duly licensed under this
 0031 act.

0032 Sec. 2. As used in this act:

0033 (a) "Apprentice" or "trainee" means a person who is: (1)
 0034 Required to register as such under section 12; (2) working at the
 0035 trade in the employment of a licensed plumbing contractor; (3)
 0036 under the direct supervision of a licensed master plumber or
 0037 journeyman; and (4) in compliance with the provisions of this
 0038 statute.

0039 (b) "Board" means the state plumbing board.

0040 (c) "Journeyman plumber" means a person having the nec-
 0041 essary qualifications, training, experience and technical knowl-
 0042 edge to install and repair plumbing works and systems in ac-
 0043 cordance with standards prescribed by rules and regulations
 0044 adopted by the board.

0045 (d) "Master plumber" means a person having the necessary

Any person who, in either a public or private capacity, practices or offers to practice as a plumbing contractor, master plumber or journeyman plumber in any city or county which requires such a person to be licensed may obtain, in lieu of obtaining a license of such city or county, a license as provided by this act. Any such city or county shall permit a person licensed under this act to practice or offer to practice, in either a public or private capacity, as a plumbing contractor, master plumber or journeyman plumber.

Act Acl D

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0046 qualifications, training, experience and technical knowledge to
0047 properly plan, lay out and supervise the installation and repair of
0048 plumbing works and systems in accordance with standards pre-
0049 scribed by rules and regulations adopted by the board.

0050 (e) "Plumbing contractor" means any person, firm, partner-
0051 ship, corporation, association or combination thereof which un-
0052 dertakes or offers to undertake for another the planning, laying
0053 out, supervising and installing or the making of additions, alter-
0054 ations and repairs in the installation of plumbing works and
0055 systems.

0056 (f) (1) "Plumbing works and systems" means:

0057 (A) Potable water supply and distribution pipes, traps,
0058 drainage and vent pipe and building drains, including their
0059 respective joints and connections, devices, receptacles and ap-
0060 purtenances;

0061 (B) water heaters and their vents;

0062 (C) pipes which convey sewage or other liquid wastes to a
0063 point of disposal;

0064 (D) receptacles, devices or appliances which are supplied
0065 with water or which receive liquid or liquid borne wastes and
0066 discharge such wastes into the drainage system to which they are
0067 connected; and

0068 (E) fuel gas supply and distribution pipes.

0069 (2) "Plumbing works and systems" does not include indus-
0070 trial or commercial tanks, vats or similar processing equipment.

0071 Sec. 3. There is hereby established a state plumbing board
0072 which shall consist of five members who shall be residents of the
0073 state appointed by the governor. Two members shall be master
0074 plumbers who are plumbing contractors, one shall be a master or
0075 journeyman plumber who is not a plumbing contractor, one shall
0076 be a chief plumbing inspector from a political subdivision of the
0077 state and one shall be appointed from the public at large. The
0078 initial appointees to the board shall serve for terms designated
0079 by the governor as follows: One for a term of one year, one for a
0080 term of two years, one for a term of three years and two for terms
0081 of four years. All subsequent appointments shall be for four-year
0082 terms. A member may be appointed to more than one term. Any

0083 vacancy occurring in the membership of the board by death,
0084 disability, resignation, change in professional classification or
0085 other cause shall be filled by the governor by appointment for
0086 the unexpired term. The governor may remove any member of
0087 the board at any time for cause.

0088 Sec. 4. (a) Each member of the board, before taking office
0089 and with 30 days after appointment, shall subscribe to an oath for
0090 the faithful performance of duty before an officer authorized to
0091 administer oaths in this state and shall file the oath with the
0092 secretary of state.

0093 (b) The board shall meet within 30 days after appointment
0094 and, in the case of the board first appointed after the effective
0095 date of this act, within 60 days from the effective date of this act)
0096 and shall elect from its membership a chairperson and vice-
0097 chairperson, each for a term of one year. The board shall meet on
0098 the third Tuesday of the first month of each calendar quarter and
0099 at such other times as it considers necessary.

0100 (c) Members of the board attending meetings of the board, or
0101 attending a subcommittee meeting thereof authorized by the
0102 board, shall be paid compensation, subsistence allowances,
0103 mileage and other expenses as provided in K.S.A. 75-3223 and
0104 amendments thereto.

0105 (d) The board may:

0106 (1) Adopt any rules and regulations necessary to enable it to
0107 carry into effect the provisions of this act. ~~In adopting such rules~~
0108 ~~and regulations, the board shall be governed by the standards of~~
0109 ~~the uniform plumbing code issued and adopted by the interna-~~
0110 ~~tional association of plumbing and mechanical officials, or by any~~
0111 ~~modifications to such standards made by the board after a hear-~~
0112 ~~ing is held. The standards adopted shall be minimum standards~~
0113 ~~governing the planning, laying out and installing and the making~~
0114 ~~of additions, alterations and repairs in the installation of plumb-~~
0115 ~~ing works and systems in this state. A copy of these standards~~
0116 ~~shall be kept in the office of the board and open to public~~
0117 ~~inspection. The standards adopted by the board shall be prima~~
0118 ~~facie evidence of minimum approved methods of plumbing for~~
0119 ~~safety to life and property.~~

0120 No city or county shall adopt or enforce any standards different
0121 from the standards adopted by the board except with the board's
0122 approval. The board shall by rules and regulations develop
0123 procedures for the submission and approval or rejection of such
0124 different standards. The affirmative vote of a majority of the
0125 members of the board shall be required to set any standards that
0126 are different from those set forth in the uniform plumbing code.
0127 If requested in writing, the board shall send a copy of newly
0128 adopted standards and rules and regulations to any interested
0129 party at least 30 days before the implementation and enforce-
0130 ment of such standards or rules and regulations. The board may
0131 by rules and regulations establish a fee for providing such
0132 copies.

0133 (2) Adopt a seal, of which the secretary of the board shall
0134 have care and custody.

0135 (3) License and renew the licenses of plumbing contractors,
0136 and examine and approve or disapprove their surety bonds, as
0137 provided by this act.

0138 (4) Examine, license and renew licenses of master plumbers
0139 and journeyman plumbers, as provided in this act.

0140 (5) Establish annually, by rules and regulations, a schedule
0141 of fees for examination, licensure and renewal in the amounts
0142 necessary to carry out and administer this act. Such fee schedule
0143 may include a penalty for late payment of fees.

0144 (6) Prescribe and furnish applications for license which shall
0145 contain statements made under oath showing the applicant's
0146 education and detailed summary of technical work performed
0147 and shall contain not less than five references having personal
0148 knowledge of the applicant's plumbing experience, of whom two
0149 or more shall either be licensed under this act or licensed by a
0150 governmental jurisdiction outside this state which has licensure
0151 requirements acceptable to the board. The board may require by
0152 rules and regulations an examination fee, which shall accompany
0153 the application form. If the applicant is successful in obtaining
0154 the license, the examination fee shall be retained by the board as
0155 an application fee. An applicant failing the examination may
0156 apply for reexamination at the expiration of 90 days, which

0157 subsequent examination shall be granted upon payment of a fee
0158 to be determined by the board.

0159 (7) Cause the prosecution and enjoinder of any person vio-
0160 lating the provisions of this act and incur necessary expenses
0161 therefor. The board may, at any time, subpoena witnesses and
0162 require the production of books, papers, documents and other
0163 materials in any case involving the revocation or suspension of
0164 license or practicing without a license. The board may cause
0165 depositions of witnesses to be taken in the manner prescribed by
0166 law for taking depositions in civil actions in the district courts.
0167 Any member of the board may administer oaths or affirmations to
0168 witnesses appearing before the board. If any person refuses to
0169 obey any subpoena so issued or any order to testify or produce
0170 any books, papers, documents or other materials, the board may
0171 petition the district court of the county in which it is meeting,
0172 setting forth the facts, and the court may issue its subpoena to the
0173 person, requiring attendance before such court and there to
0174 testify or to produce such books, papers, documents or other
0175 materials as considered necessary by the board. Any person
0176 failing or refusing to obey the subpoena or order of the court may
0177 be proceeded against in the same manner as for refusal to obey
0178 any other subpoena or order of the court.

0179 (8) Cancel, recall, suspend or restrict the license of any
0180 person licensed under this act for cause as provided for by this
0181 act.

0182 (9) Employ such technical, clerical or other assistance as
0183 necessary for the proper performance of its work. Such assistance
0184 may include the use of plumbing inspectors normally employed
0185 by political subdivisions of this state to conduct inspections on
0186 behalf of the board.

0187 (10) Employ a director who shall be known as the state
0188 plumbing director to serve at the pleasure of the board. Quali-
0189 fications and salary of the director shall be determined by the
0190 board. After final determination and selection of the state
0191 plumbing director, the director shall be responsible to the state
0192 plumbing board under whose direction and supervision the
0193 director shall work. The director shall not have or acquire any

0194 interest, financial or otherwise, in any plumbing business by
0195 contracting, supplying material or otherwise engaging in the
0196 plumbing industry.

0197 (e) A quorum of the board shall consist of not less than three
0198 members.

0199 (f) The director shall receive and account for all moneys
0200 collected under this act and shall pay them to the state treasurer
0201 at least monthly. The state treasurer shall credit the amounts
0202 prescribed by K.S.A. 75-3170 and amendments thereto to the
0203 general fund of the state for the purpose of reimbursing such
0204 fund as provided for in K.S.A. 75-3170 and amendments thereto.
0205 The balance of the moneys shall be credited to the state plumb-
0206 ing board fund, which is hereby created in the state treasury.
0207 Expenditures from such fund shall be solely for the expenses and
0208 compensation of the board. Such expenditures shall be made
0209 upon warrants of the director of accounts and reports issued
0210 pursuant to vouchers approved by the chairperson of the board
0211 and the director.

0212 (g) The director shall act as secretary and keep a record of the
0213 board's proceedings and a register of all applications for license,
0214 which register shall show:

- 0215 (1) The name, age and residence of each applicant;
 - 0216 (2) the date of the application;
 - 0217 (3) the place of business of the applicant;
 - 0218 (4) the applicant's educational and other qualifications;
 - 0219 (5) whether or not an examination was required;
 - 0220 (6) the action of the board upon the application;
 - 0221 (7) the date of the action of the board; and
 - 0222 (8) any other information considered necessary by the board.
- 0223 (h) The minutes of the board shall be prima facie evidence of
0224 the proceedings of the board, and a copy thereof certified by the
0225 director shall be admissible in evidence with the same force and
0226 effect as the original.

0227 (i) A roster showing the names and places of business of all
0228 persons licensed under this act shall be published by the direc-
0229 tor during the month of July each year. Copies of this roster shall
0230 be placed on file with the secretary of state and with the county

0231 clerk of each county in the state. Following each examination,
 0232 changes in the roster shall be placed on file with the secretary of
 0233 state and with the county clerk of each county in the state.
 0234 Copies of the annual roster will be furnished to the public upon
 0235 written request, and the board may establish fees for such copies.

0236 ~~Sec. 5. Because plumbing licensing and the examination of
 0237 persons performing plumbing work are matters of statewide
 0238 concern, no examinations, certifications or licensing of anyone
 0239 licensed by this act shall be required by any city or county.
 0240 However, any such local governmental authority may insure that
 0241 plumbing work is performed in accordance with this act and may
 0242 impose inspection requirements for that purpose.~~

0243 ~~Sec. 6. (a) No person shall engage in or work at the business,
 0244 trade or calling of journeyman plumber, master plumber or
 0245 plumbing contractor in this state unless the person holds a valid
 0246 license or temporary permit under this act. No person licensed
 0247 under this act shall perform plumbing work of a type which is
 0248 beyond the authorization of the license held by the person.~~

0249 ~~(b) (1) No person, firm, corporation, partnership, association
 0250 or combination thereof shall engage in the business of a plumb-
 0251 ing contractor without having first received from the board a
 0252 license to engage in the plumbing contracting business. The
 0253 board shall require as a condition precedent to the board's
 0254 issuance of a license to the applicant that the applicant furnish
 0255 evidence of compliance with the applicable workmen's com-
 0256 pensation and unemployment compensation laws of this state.~~

0257 ~~Each applicant for a plumbing contractor's license shall post
 0258 with the board a surety bond in the amount of \$10,000, which
 0259 shall be approved as to form by the board and shall be condi-
 0260 tioned on the applicant's compliance with all the provisions of
 0261 this act and payment of any and all damages to persons or
 0262 property resulting from or growing out of any of the applicant's
 0263 actions pertinent to this act. Each applicant shall also furnish any
 0264 other evidence of financial responsibility required by the board.~~

0265 ~~Either the owner or part owner of any firm, partnership,
 0266 corporation, association or combination thereof must possess a
 0267 master plumber's license issued by the board and be in charge of~~

Sec. 5. (a) No person shall engage in the business or trade of journeyman plumber, master plumber or plumbing contractor in any city or county of this state where licensure to engage in such business or trade is required unless the person holds a valid license or temporary permit under this act or under the ordinance or resolution of the city or county. No person licensed under this act shall perform plumbing work of a type which is beyond the authorization of the license held by the person.

(b) (1) No person, firm, corporation, partnership, association or combination thereof shall engage in the business of a plumbing contractor in any city or county of this state where licensure to engage in such business is required without having first received from the board, city or county a license to engage in the plumbing contracting business. The board shall require as a condition precedent to the board's issuance of a license to the applicant that the applicant furnish evidence of compliance with the applicable workmen's compensation and unemployment compensation laws of this state.

applying to the board for licensure as a plumbing contractor

0268 the supervision of all plumbing work performed by the contrac-
 0269 tor or the contractor must employ at least one master plumber
 0270 licensed by the board who shall be in charge of the supervision
 0271 of all plumbing work performed by the contractor.

0272 When the applicant has satisfied all the requirements of this
 0273 subsection, the board or the director shall issue promptly, upon
 0274 payment of the fee prescribed by the board, a plumbing con-
 0275 tractor's license.

0276 (2) An applicant for a master plumber's license shall furnish
 0277 written evidence that the applicant has satisfied the require-
 0278 ments for a journeyman plumber's license and has had one year
 0279 of practical experience in planning, laying out, supervising and
 0280 installing plumbing works and systems beyond the practical
 0281 experience requirements for a journeyman plumber's license. An
 0282 applicant for a master plumber's license must be 21 years or
 0283 more of age. Each applicant for a license as a master plumber
 0284 shall file an application on forms prepared and furnished by the
 0285 board, together with the examination fee prescribed by the
 0286 board. The board, not less than 30 days prior to a scheduled
 0287 written examination, shall notify each applicant that the evi-
 0288 dence submitted with the application is sufficient to qualify the
 0289 applicant to take the written examination or that the evidence is
 0290 insufficient and is rejected. If the application is rejected, the
 0291 board shall set forth the reasons for rejection in the notice to the
 0292 applicant and shall promptly return the applicant's examination
 0293 fee. The place of examination shall be designated in advance by
 0294 the board, and examinations shall be held not less often than
 0295 once a year and at such times as, in the opinion of the board, the
 0296 number of applicants warrants. The master plumber's written
 0297 examination shall consist of at least 30 questions designed to
 0298 fairly test the applicant's knowledge and the technical applica-
 0299 tion thereof in the following subjects:

- 0300 (A) ~~Plumbing codes and standards adopted by the board;~~
- 0301 (B) cost estimating for plumbing installations;
- 0302 (C) procurement and handling of materials needed for
- 0303 plumbing installation and repairs;
- 0304 (D) reading of blueprints for plumbing work;

← The uniform plumbing code issued and adopted by the
 international association of plumbing and mechanical
 officials

0305 (E) drafting and layout of plumbing systems; and

0306 (F) practical plumbing theory.

0307 An applicant must achieve a 70% score to pass the examination.

0308 An applicant failing the examination may apply for reexamina-

0309 tion at the expiration of 90 days from the date the prior examina-

0310 tion was taken.

0311 (3) An applicant for a journeyman plumber's license shall

0312 furnish written evidence that the applicant has had at least four

0313 years' experience, acceptable to the board, under the direct

0314 supervision of a licensed journeyman plumber, master plumber

0315 or plumbing contractor, in installing and repairing plumbing

0316 works and systems and shall further establish that the applicant

0317 has had at least two years' experience in commercial or industrial

0318 work. The board may by rules and regulations provide for the

0319 allowance of up to two years' experience credit for successful

0320 completion of a post high school plumbing course approved by

0321 the board. Applications for license and notice to the applicant

0322 shall be made and given as provided for in the case of master

0323 plumbers' licenses. An applicant for a journeyman plumber's

0324 license must be 20 or more years of age. The written examination

0325 for a journeyman plumber's license shall consist of at least 30

0326 questions designed to fairly test the applicant's knowledge and

0327 the technical application thereof in the following subjects:

0328 (A) ~~Plumbing codes and standards adopted by the board;~~ and

0329 (B) layout and practical installation of plumbing systems.

0330 An applicant must achieve a 70% score to pass the examination.

0331 An applicant failing the examination may apply for reexamina-

0332 tion at the expiration of 90 days from the date the prior examina-

0333 tion was taken.

0334 ~~Sec. 7. (a) Employees of public service corporations, rural~~

0335 water districts, sewer districts, public utilities or municipal util-

0336 ities treating, storing, distributing or selling water or fuel gas or

0337 treating or disposing of sewage, or their corporate affiliates or

0338 employees, ~~shall not be required~~ to hold licenses while doing

0339 plumbing work for those purposes within their properties or

0340 within public easements designated for those purposes.

0341 (b) Nothing in this act shall be construed to require any

The uniform plumbing code

6. (a) Nothing in this act shall be construed to require

0342 individual to hold a license before installing plumbing works
0343 and systems on the person's own property or residence unless
0344 the property or residence: (1) Shares a common wall with an-
0345 other person's property or residence; (2) is intended for sale or
0346 resale by a person engaged in the business of constructing or
0347 remodeling facilities or structures; (3) is rental property which is
0348 occupied or is to be occupied by tenants for lodging, transient or
0349 permanent; or (4) is generally open to the public.

0350 (c) Nothing in this act shall be construed to require any
0351 individual to hold a license before doing any maintenance,
0352 repair or alteration of existing facilities on the person's own
0353 property or residence unless the property or residence shares a
0354 common wall with another person's residence. Likewise nothing
0355 in this act shall be construed to require any firm, partnership or
0356 corporation, or its regular employees, to be required to hold a
0357 license before doing any maintenance, repair or alteration of
0358 existing facilities on the property owned or leased by the firm,
0359 partnership or corporation.

0360 ~~Sec. 8.~~ The board, or the state plumbing director acting as its
0361 agent, as provided in rules and regulations adopted by the board,
0362 shall issue temporary permits to engage in the work of a master
0363 plumber in cases where a plumbing contractor no longer has the
0364 services of any master plumber as required under this act and
0365 shall issue temporary permits to engage in the work of a jour-
0366 neyman plumber to any applicant who furnishes evidence satis-
0367 factory to the board that the applicant has the required experi-
0368 ence to qualify for the examination required by this act and who
0369 pays the fee for such permit. A temporary permit shall continue
0370 in effect only until the next examination is given and may be
0371 revoked by the board at any time. If the applicant is granted a
0372 license, any fee paid for the temporary permit shall be applied to
0373 the fee required for a license.

0374 ~~Sec. 9.~~ To the extent that other states which provide for the
0375 licensing of plumbers provide for reciprocal action, the board, or
0376 the director acting as its agent, may issue licenses to plumbers
0377 licensed by such other states, upon payment by the applicant of
0378 the required fee and upon furnishing proof to the board that the

0379 applicant has qualifications at least equal to those required by
0380 this act for applicants for examination. Applicants who qualify for
0381 a license under this section shall not be required to take a written
0382 examination.

0383 ~~Sec. 10.~~ Each master plumber and journeyman plumber li-
0384 censed under this act shall be required to complete a course
0385 covering changes in the plumbing codes and standards adopted
0386 by the board, which course shall be either offered or approved by
0387 the board, within one year of the adoption of such changes.

0388 ~~Sec. 11.~~ (a) Any person may work as an apprentice or trainee ⁹
0389 working at the trade to a licensed master plumber or journeyman
0390 plumber but shall not do any plumbing work except under the
0391 direct supervision of a licensed master plumber or journeyman.

0392 (b) Any plumbing contractor, master plumber or journeyman
0393 plumber who is the employer or supervisor of any plumbing
0394 apprentice or trainee working at the trade shall be responsible
0395 for the work performed by such apprentice or trainee. The
0396 license of any such contractor or plumber may be suspended or
0397 revoked under the provisions of section ~~12~~ ¹⁰ for any improper
0398 work performed by an apprentice or trainee working at the trade
0399 during the time of employment while under the supervision of
0400 the licensee. The registration of such apprentice or trainee may
0401 also be subject to suspension or revocation under the provisions
0402 of section ~~12~~ ¹⁰.

0403 (c) Upon employing an apprentice or trainee to work at the ^{licensed under this act}
0404 trade, a plumbing contractor shall notify the board within 30 days
0405 after commencement of the actual employment, and the em-
0406 ployer shall also notify the board within 30 days after the termi-
0407 nation of the employment.

0408 (d) All apprentices and trainees working at the trade for ^{licensed under}
0409 plumbing contractors who are covered by this act shall, within 60
0410 days after commencement of actual employment, register with
0411 the board, and the board shall register such apprentice or trainee
0412 upon receiving verification of employment and upon payment by
0413 the apprentice or trainee to the board of the fee required by the
0414 board.

0415 ~~Sec. 12.~~ (a) Any person may file a complaint with the board ¹⁰

0416 against any person, firm, partnership, corporation, association or
0417 combination thereof licensed under this act. In addition, the
0418 board on its own motion, the attorney general or any county or
0419 district attorney may file a complaint.

0420 (b) A complaint may be filed for:

0421 (1) Violations of this act;

0422 (2) violations of the rules and regulations of the board;

0423 (3) misstatement, misrepresentation, deceit or fraud in ob-
0424 taining a license;

0425 (4) incompetence, ~~prima facie evidence of which shall be~~
0426 ~~failure to adhere to the codes and standards adopted by the~~
0427 ~~board;~~

0428 (5) gross negligence;

0429 (6) fraud, deceit, abandonment of contract or misconduct in
0430 the performance of a contract;

0431 (7) fraudulent use of any license issued by the board; or

0432 (8) any other violation of law or public policy that the board
0433 reasonably considers relevant.

0434 (c) Complaints shall be in writing, shall be sworn to by the
0435 person making them and shall be filed with the director. A
0436 complaint filed by the board on its own motion shall be signed
0437 by the chairperson and bear the seal of the board. Any complaint,
0438 unless dismissed by the board as unfounded or trivial, shall be
0439 heard by the board within three months after the date on which it
0440 is filed. The time and place for hearing shall be fixed by the
0441 board, and a copy of the complaint, together with a notice of the
0442 time and place of hearing, shall be personally served on or
0443 mailed to the last known address of the person complained
0444 against at least 30 days before the date fixed for the hearing. At
0445 any hearing, the person complained against shall have the right
0446 to appear personally and by counsel, cross-examine witnesses
0447 appearing against the person and produce evidence and wit-
0448 nesses in the person's defense. If, after such hearing, three or
0449 more members of the board vote in favor of finding the person
0450 has committed one or more of the acts complained of, the board
0451 shall reprimand, discipline the person or shall suspend or revoke
0452 the person's license. The board, for reasons it deems sufficient,

0453 may reissue a license to any person whose license has been
 0454 revoked and may reinstate the license of any person whose
 0455 license has been suspended if three or more members of the
 0456 board vote in favor of the reissuance or reinstatement. A new
 0457 license, to replace any revoked, lost, destroyed or mutilated
 0458 license, may be issued subject to rules and regulations adopted
 0459 by the board, and a charge, established by rules and regulations
 0460 adopted by the board, shall be made for its issuance.

0461 ~~Sec. 13.~~ Notice of the action of the board in denying, sus- 11
 0462 pending or revoking a license shall be given by sending a copy of
 0463 the order by certified mail to the last known address of the
 0464 applicant or licensee. Any applicant or licensee aggrieved by any
 0465 decision of the board may, within 30 days after notice or receipt
 0466 of a copy of the order of the board, appeal to the district court of
 0467 the county in which the applicant or licensee resides, which
 0468 court shall try the appeal *de novo* and shall have jurisdiction to
 0469 affirm, reverse, vacate or modify the decision appealed. Notice of
 0470 the appeal shall be filed in the office of the clerk of the district
 0471 court and a copy served upon the director within five days
 0472 thereafter. Within 20 days after the filing of the appeal, the board
 0473 shall file with the clerk of the district court a certified copy of the
 0474 transcript including the records of the board and all evidence
 0475 introduced during the proceedings.

0476 ~~Sec. 14.~~ Any person who: Practices, or offers to practice as a 12
 0477 plumbing contractor, master plumber or journeyman plumber in
 0478 this state without being licensed ~~in accordance with the provi-~~
 0479 ~~sions of this act;~~ presents or attempts to use as the person's own when required by
 0480 the license of another; gives any false or forged evidence of any
 0481 kind to the board or to any member thereof in obtaining a
 0482 license; attempts to use an expired, suspended or revoked li-
 0483 cense; or violates any of the provisions of this act shall be guilty
 0484 of a misdemeanor punishable by a fine of not less than \$100 nor
 0485 more than \$1,000 or imprisonment for not exceeding six months,
 0486 or both. The attorney general of the state or the county or district
 0487 attorney of any county shall, at the request of the board, render
 0488 such legal assistance as necessary in carrying out the provisions
 0489 of this act. Upon the request of the board, the attorney general or

0490 county or district attorney of the proper county shall institute in
0491 the name of the state or board the proper proceedings against any
0492 person regarding whom a complaint has been made charging the
0493 violation of any provisions of this act. The attorney general, and
0494 any county or district attorney at the request of the attorney
0495 general or of the board, shall appear and prosecute any and all
0496 such actions. Whenever, in the judgment of the board, any
0497 person has engaged in or is about to engage in any acts or
0498 practices which constitute, or will constitute, a violation of this
0499 act, or any valid rules and regulations of the board, the board may
0500 make application to the appropriate court for an order enjoining
0501 such acts or practices, and upon a showing by the board that such
0502 person has engaged in or is about to engage in any such acts or
0503 practices, an injunction, restraining order or such other appro-
0504 priate order shall be granted by the court without bond.

0505 ~~Sec. 15. (a) On or before December 31, 1985, the board will~~
0506 ~~issue without written examination licenses for a master plumber~~
0507 ~~or journeyman plumber to any person who is a resident of the~~
0508 ~~state of Kansas and who:~~

0509 ~~(1) Is currently licensed or certified in that capacity by any~~
0510 ~~city or county of this state, provided such license was granted~~
0511 ~~subsequent to passage of an examination designed to fairly test~~
0512 ~~the licensee's knowledge and the technical application thereof~~
0513 ~~in the class of plumbing work for which the license was granted;~~
0514 ~~or~~

0515 ~~(2) if the person has no such license or certificate, furnishes~~
0516 ~~evidence satisfactory to the board that the person has the neces-~~
0517 ~~sary experience and has been employed in that capacity by a~~
0518 ~~bona fide employer in this state, which evidence shall include~~
0519 ~~payroll records, tax records, employer's Kansas sales tax number~~
0520 ~~and federal identification number and statements by the appli-~~
0521 ~~cant and employer sworn before a notary public that such state-~~
0522 ~~ments and other evidence is true and accurate.~~

0523 ~~(b) Because no written examination is required for a plumb-~~
0524 ~~ing contractor license, the board shall issue such a license when~~
0525 ~~the applicant furnishes evidence of compliance with the re-~~
0526 ~~quirements for licensure as a plumbing contractor under this act.~~

0527 ~~(c) After December 31, 1985, the board shall issue licenses~~
0528 ~~only as provided in section 6.~~

13

0529 Sec. 16. This act may be cited as the Kansas plumbing li-
0530 censing act.

14

0531 Sec. 17. If any provisions of this act are declared unconsti-
0532 tutional or invalid, that declaration shall not invalidate any other
0533 provisions of the act.

15

0534 Sec. 18. This act shall take effect and be in force from and
0535 after its publication in the statute book.

HOUSE BILL No. 2237

By Committee on Federal and State Affairs

Attach E

0017 AN ACT concerning licensure and regulation of electricians;
0018 enacting the Kansas electrical licensing act.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. In order to safeguard life, health and property,
0021 and to promote the public welfare, any person in either public or
0022 private capacity, practicing or offering to practice as an electrical
0023 contractor, master electrician, journeyman electrician or resi-
0024 dential wireman shall be required to submit evidence of qualifi-
0025 cation to practice and shall be licensed as provided in this act. It
0026 shall be unlawful for any person to practice as an electrical
0027 contractor, master electrician, journeyman electrician or resi-
0028 dential wireman as defined in section 2, in this state, or to use in
0029 connection with such person's name or to advertise any title or
0030 description tending to convey an impression that such person is
0031 an electrical contractor, master electrician, journeyman electri-
0032 cian or residential wireman unless such person has been duly
0033 licensed under this act. This act does not preclude any local
0034 governmental authority from imposing inspection requirements.

Any person who, in either a public or private capacity, practices or offers to practice as an electrical contractor, master electrician, journeyman electrician or residential wireman in any city or county which requires such a person to be licensed may obtain, in lieu of obtaining a license of such city or county, a license as provided by this act. Any such city or county shall permit a person licensed under this act to practice or offer to practice, in either a public or private capacity, as an electrical contractor, master electrician, journeyman electrician or residential wireman.

0035 Sec. 2. As used in this act:

0036 (a) "Board" means the state electrical board.

0037 (b) "Electrical contractor" means any person, firm, copart-
0038 nership, corporation, association or combination thereof, who
0039 undertakes or offers to undertake for another the planning, laying
0040 out, supervising and installing or the making of additions, alter-
0041 ations and repairs in the installation of wiring apparatus and
0042 equipment for electrical light, heat, power and other purposes.

0043 (c) "Master electrician" means a person having the necessary
0044 qualifications, training, experience and technical knowledge to
0045 properly plan, lay out and supervise the installation and repair of

Attach E
3/28/85

0046 wiring apparatus and equipment for electric light, heat, power
0047 and other purposes in accordance with rules and regulations
0048 adopted by the board.

0049 (d) Journeyman electrician” means a person having the nec-
0050 essary qualifications, training, experience and technical knowl-
0051 edge to wire, install and repair electrical apparatus and equip-
0052 ment for light, heat, power and other purposes in accordance
0053 with rules and regulations adopted by the board.

0054 (e) “Apprentice” or “trainee” means a person who is re-
0055 quired to register as such under section 12, is working at the
0056 trade in the employment of a licensed electrical contractor, and
0057 is under the direct supervision of a licensed master electrician,
0058 journeyman electrician or residential wireman and who is in
0059 compliance with the provisions of this act.

0060 (f) “Residential wireman” means a person having the neces-
0061 sary qualifications, experience and technical knowledge to wire
0062 and install electrical apparatus and equipment for one and two-
0063 family dwellings and multifamily dwellings not to exceed three
0064 floors above grade.

0065 Sec. 3. There is hereby established a state electrical board
0066 which shall consist of five members, appointed by the governor,
0067 who shall be residents of this state. Two members shall be
0068 master electricians who are electrical contractors, one shall be a
0069 journeyman electrician who is not an electrical contractor, one
0070 shall be a chief electrical inspector from a political subdivision of
0071 the state, and one shall be appointed from the public at large.
0072 The initial appointees to the board shall serve for terms as
0073 follows and the governor shall designate the term of each: One
0074 for a term of one year, one for a term of two years, one for a term
0075 of three years and two for terms of four years. All subsequent
0076 appointments shall be for four-year terms, and any member may
0077 be appointed to succeed self. Any vacancy occurring in the
0078 membership of the board by death, disability, resignation,
0079 change in member’s professional classification or other cause
0080 shall be filled by the governor by appointment for the unexpired
0081 term of such member. The governor may remove any member of
0082 the board at any time for cause.

0083 Sec. 4. (a) Each member of the board, before entering on the
0084 discharge of such member's duties and within 30 days from the
0085 effective date of appointment, shall subscribe to an oath for the
0086 faithful performance of duty before an officer authorized to
0087 administer oaths in this state and shall file it with the secretary of
0088 state.

0089 (b) The board shall meet within 30 days after appointment
0090 (and within 60 days from the effective date of this act), shall elect
0091 from its membership a chairperson and vice-chairperson, each
0092 for terms of one year. The board shall meet on the third Tuesday
0093 of the first month of each calendar quarter and at other times it
0094 deems necessary.

0095 (c) Members of the board attending meetings of the board, or
0096 attending a subcommittee meeting thereof authorized by the
0097 board, shall be paid compensation, subsistence allowances,
0098 mileage and other expenses as provided in K.S.A. 75-3223 and
0099 amendments thereto.

0100 (d) The board is authorized to:

0101 (1) Adopt rules and regulations necessary to carry into effect
0102 the provisions of this act. ~~In adopting rules and regulations, the~~
0103 ~~board shall be governed by the standards in the national electri-~~
0104 ~~cal code issued and adopted by the national board of fire un-~~
0105 ~~derwriters, of the national fire protection association or by any~~
0106 ~~modifications to such standards made by the board after a hear-~~
0107 ~~ing is held. These standards are adopted as the minimum stan-~~
0108 ~~dards governing the planning, laying out and installing or the~~
0109 ~~making of additions, alterations and repairs in the installation of~~
0110 ~~wiring apparatus and equipment for electric light, heat and~~
0111 ~~power in this state. A copy of these standards shall be kept in the~~
0112 ~~office of the board and be open to public inspection. No city,~~
0113 ~~county or city and county shall adopt or enforce any standards~~
0114 ~~different from the standards adopted by the board except with~~
0115 ~~the board's approval. The board shall by adoption of rules and~~
0116 ~~regulations provide procedures for the submission, approval and~~
0117 ~~rejection of such alternate standards. The standards adopted by~~
0118 ~~the board shall be prima facie evidence of minimum approved~~
0119 ~~methods of electrical construction for safety to life and property.~~

0120 ~~The affirmative vote of a majority of the appointed members of~~
0121 ~~the board shall be required to set any standards that are different~~
0122 ~~from those set forth in the national electrical code;~~

0123 (2) adopt a seal, and the secretary shall have the care and
0124 custody thereof;

0125 (3) examine, license and renew the licenses of electrical
0126 contractors, and examine and approve or disapprove their surety
0127 bonds; examine, license and renew licenses of master electri-
0128 cians, journeyman electricians and residential wiremen and ex-
0129 amine, license and renew licenses for limited classes of electri-
0130 cal work as provided in this act;

0131 (4) establish annually, by adoption of rules and regulations, a
0132 schedule of license and renewal fees in the amount necessary to
0133 carry out and administer this act; such fee schedule may include
0134 a penalty for late payment of fees;

0135 (5) furnish forms for applications for license which, shall
0136 contain statements made under oath, showing the applicant's
0137 education and detailed summary of technical work performed,
0138 and shall contain not less than five references who have personal
0139 knowledge of the applicant's electrical experience and of whom
0140 two or more shall either be licensed under this act or licensed by
0141 a governmental jurisdiction outside this state which has re-
0142 quirements for licensing such requirements being acceptable by
0143 the board. The board may require, by adoption of rules and
0144 regulations, an examination fee which shall accompany the ap-
0145 plication form. Should the applicant be successful in obtaining
0146 the license, the examination fee shall be retained by the board as
0147 an application fee. An applicant failing an examination may
0148 apply for reexamination at the expiration of 90 days, which
0149 subsequent examination shall be granted upon payment of a fee
0150 to be determined by the board;

0151 (6) cause the prosecution and enjoinder of all persons violat-
0152 ing this act and incur necessary expenses therefor. The board
0153 may, at any time, subpoena witnesses, require the production of
0154 books, papers, documents, etc., in any case involving the revo-
0155 cation or suspension of license or practicing without a license.
0156 The board may cause the depositions of witnesses to be taken in

01 the manner prescribed by law for taking depositions in civil
0150 actions in the district courts. Any member of the board may
0159 administer oaths or affirmations to witnesses appearing before
0160 the board. If any person refuses to obey any subpoena so issued,
0161 or refuses to testify or produce any books, papers or documents,
0162 the board may present its petition to the district court of the
0163 county in which it is meeting, setting forth the facts and the court
0164 shall, in proper case, issue its subpoena to such person, requiring
0165 attendance before such court to testify or to produce such books,
0166 papers and documents specified by the board. Any person failing
0167 or refusing to obey the subpoena or order of the court may be
0168 proceeded against in the same manner as for refusal to obey any
0169 other subpoena or order of the court;

0170 (7) cancel, recall, suspend or restrict for cause the license of
0171 any person licensed under this act, as later provided for herein;

0172 (8) employ such technical, clerical or other assistance as is
0173 necessary for the proper performance of its work. Such assistance
0174 may include the use of electrical inspectors normally employed
0175 by political subdivisions of this state to conduct inspections on
0176 behalf of the board. The board shall adopt rules and regulations
0177 necessary to implement this paragraph (8); ~~_____~~ and

0178 (9) employ a director who shall be known as the state elec-
0179 trical director to serve at the pleasure of the board. Qualifications
0180 and salary of the state electrical director shall be determined by
0181 the board. After final determination and selection of the state
0182 electrical director, such director shall be responsible to the state
0183 electrical board under whose direction and supervision such
0184 director shall work. Such director shall not have nor acquire any
0185 interest, financial or otherwise, in any electrical business by
0186 contracting, supplying material or otherwise engaging in the
0187 electrical industry.

0188 (e) A quorum of the board shall consist of three members.

0189 (f) The director shall receive and account for all moneys
0190 collected under this act and shall pay the same monthly into the
0191 state treasury and the state treasurer shall credit the amount
0192 prescribed by K.S.A. 75-3170 and amendments thereto to the
0193 state general fund for the purpose of reimbursing such fund as

194 provided for in K.S.A. 75-3170 and amendments thereto. The
0195 balance of such money shall be credited to the state electrical
0196 board fund. Expenditures from such fund shall be for the ex-
0197 pense and compensation of the board on vouchers approved by
0198 the chairperson and the director.

0199 (g) The director shall act as secretary and keep a record of the
0200 board proceedings and a register of all applications for license,
0201 which register shall show:

- 0202 (1) The name, age and residence of each applicant;
- 0203 (2) the date of the application;
- 0204 (3) the place of business of such applicant;
- 0205 (4) the applicant's educational and other qualifications;
- 0206 (5) whether or not an examination was required;
- 0207 (6) the action of the board upon the application;
- 0208 (7) the date of the action of the board; and
- 0209 (8) such other information as the board determines.

0210 The minutes of the board shall be prima facie evidence of the
0211 proceedings of the board, and a copy thereof certified by the
0212 director shall be admissible in evidence with the same force and
0213 effect as if the original were produced.

0214 (h) A roster showing the names and places of business of all
0215 persons licensed under this act shall be published by the direc-
0216 tor during the month of July each year. Copies of this roster shall
0217 be filed with the secretary of state and with the county clerk of
0218 each county. Following each examination, changes in the roster
0219 shall be filed with the secretary of state and with each county
0220 clerk. Copies of the annual roster will be furnished to the public
0221 upon written request, and the board may establish fees for such
0222 copies.

0223 ~~Sec. 5. Inasmuch as electrical licensing and the examination~~
0224 ~~of persons performing electrical work is a matter of statewide~~
0225 ~~concern, no examinations, certifications or licensing of anyone~~
0226 ~~licensed by this act shall be required by any city, county or city~~
0227 ~~and county. However, any such local governmental authority is~~
0228 ~~empowered to insure that electrical work is performed in ac-~~
0229 ~~cordance with this act.~~

0230 ~~Sec. 6. (a) No person shall engage in or work at the business,~~

1 trade or calling of journeyman electrician, master electrician,
 0232 electrical contractor, residential wireman or in limited classes of
 0233 electrical work in this state until such person has received a
 0234 license from the board or the director acting as the agent thereof,
 0235 or a temporary permit from the board, the state electrical director
 0236 or the director's agent. No one licensed under this act shall
 0237 perform electrical work of a type which is beyond the authoriza-
 0238 tion of the license held.

0239 (b) (1) No person, firm, corporation, copartnership, associa-
 0240 tion or combination thereof, shall engage in the business of an
 0241 electrical contractor without having first received from the board
 0242 a license to engage in the electrical contracting business. The
 0243 board shall require as a condition precedent to the board's
 0244 issuance of a license to such applicant that the applicant furnish
 0245 evidence of compliance with the applicable workmen's com-
 0246 pensation and unemployment compensation laws of this state.

0247 Each applicant for an electrical contractor's license shall also
 0248 post with the board a surety bond in the amount of \$10,000,
 0249 which shall be approved as to form by the board, the condition of
 0250 such bond to be that the principal will comply with this act, and
 0251 hold and save the state harmless from any and all damages to
 0252 persons or property resulting from or growing out of any of the
 0253 principal's actions pertinent to this act. Each applicant shall also
 0254 furnish any other evidence of financial responsibility required
 0255 by the board. Either the owner or part owner of any firm,
 0256 copartnership, corporation, association or combination thereof,
 0257 must possess a master electrician's license issued by the board
 0258 and be in charge of the supervision of all electrical work per-
 0259 formed by such contractor, or such contractor must employ at
 0260 least one master electrician licensed by the board who shall be in
 0261 charge of the supervision of all electrical work performed by
 0262 such contractor. When the applicant has satisfied all the re-
 0263 quirements of this section, the board or the director shall issue,
 0264 upon payment of the fee as provided by the board, a license for
 () an electrical contractor.

0266 (2) An applicant for a master electrician's license shall fur-
 0267 nish written evidence that such person has satisfied the require-

Sec. 5. (a) No person shall engage in the business or trade of journeyman electrician, master electrician, electrical contractor, residential wireman or in limited classes of electrical work in any city or county of this state where licensure to engage in such business or trade is required unless the person holds a valid license or temporary permit under this act or under the ordinance or resolution of the city or county licensed under this act shall perform electrical work of a type which is beyond the authorization of the license held.

(b) (1) No person, firm, corporation, copartnership, association or combination thereof, shall engage in the business of an electrical contractor in any city or county of this state where licensure is required without having first received from the board, city or county a license to engage in the electrical contracting business. The board shall require as a condition precedent to the board's issuance of a license to such applicant that the applicant furnish evidence of compliance with the applicable workmen's compensation and unemployment compensation laws of this state.

—applying to the board for licensure as an electrical contractor

0269 has had one year of practical experience in planning, laying out,
 0270 supervising and installing wiring apparatus or equipment for
 0271 electric light, heat, power or other purposes beyond the practical
 0272 experience requirements for a journeyman electrician's license.
 0273 An applicant for a master electrician's license must be 21 years of
 0274 age or older. Each applicant for a license as a master electrician
 0275 shall file an application on forms furnished by the board, to-
 0276 gether with the examination fee as provided by the board. The
 0277 board, not less than 30 days prior to a scheduled written exami-
 0278 nation, shall notify such applicant that the evidence submitted
 0279 with the application is sufficient to qualify to take such written
 0280 examination or that such evidence is insufficient and is rejected.
 0281 In the event the application is rejected, the board shall set forth
 0282 the reasons therefor in the notice to the applicant and shall
 0283 forthwith return such applicant's examination fee. The place of
 0284 examination shall be designated in advance by the board, and
 0285 examinations shall be held not less often than once a year and at
 0286 such times as, in the opinion of the board, the number of
 0287 applicants warrants. The master electrician's written examina-
 0288 tion shall consist of at least 30 questions designed to fairly test
 0289 the applicant's knowledge and the technical application thereof
 0290 in the following subjects:

- 0291 (A) ~~Electrical codes and standards as adopted by the board;~~
- 0292 (B) cost estimating for electrical installations;
- 0293 (C) procurement and handling of materials needed for elec-
- 0294 trical installation and repairs;
- 0295 (D) reading of blueprints for electrical work;
- 0296 (E) drafting and layout of electrical circuits; and
- 0297 (F) knowledge of practical electrical theory.

0298 An applicant must achieve a 70% score to pass the examination.
 0299 An applicant failing the examination may apply for reexamina-
 0300 tion at the expiration of 90 days from the date the prior examina-
 0301 tion was taken.

0302 (3) An applicant for a journeyman electrician's license shall
 0303 furnish written evidence of at least four years' experience, ac-
 0304 ceptable to the board, and under the direct supervision of a

The national electrical code issued and adopted by
 the national board of fire underwriters of the
 national fire protection association

0305 licensed journeyman electrician, master electrician or electrical
0306 contractor, in wiring for, installing and repairing electrical appa-
0307 ratus and equipment for light, heat, power and other purposes
0308 and shall further establish that such applicant has had at least
0309 two years' experience in commercial or industrial work. The
0310 board may by rule or regulation provide for the allowance of up
0311 to two years' experience credit for successful completion of a
0312 post-high school electrical course approved by the board. Appli-
0313 cations for license and notice to the applicant shall be made and
0314 given as provided for in the case of master electricians' licenses.
0315 An applicant for a journeyman electrician's license must be 20
0316 years of age or older. The written examination for a journeyman
0317 electrician's license shall consist of at least 30 questions de-
0318 signed to fairly test the applicant's knowledge and the technical
0319 application thereof in the following subjects:

0320 (A) ~~Electrical codes and standards as adopted by the board;~~ The national electrical code
0321 and

0322 (B) layout and practical installation of electrical circuits.

0323 An applicant must achieve a 70% score to pass the examination.

0324 An applicant failing the examination may apply for reexamina-
0325 tion at the expiration of 90 days from the date the prior examina-
0326 tion was taken.

0327 (4) An applicant for a residential wireman's license shall
0328 furnish written evidence of at least two years' training in resi-
0329 dential wiring under the direct supervision of a licensed electri-
0330 cal contractor, master electrician, journeyman electrician or res-
0331 idential wireman. The written examination for a residential
0332 wireman's license shall consist of at least 30 questions designed
0333 to fairly test the applicant's knowledge of residential wiring and
0334 the national electrical code's sections pertaining to residential
0335 wiring.

0336 (5) The board shall by adoption of rules and regulations
0337 provide for the issuance of special licenses empowering the
0338 licensee to engage in a limited class or classes of electrical work,
0339 which class or classes shall be specified on the license. Each
0340 licensee shall have experience, acceptable to the board, in each
0341 class of work for which licensed.

0342 Sec. 7. ~~(a)~~ Employees of public utilities, rural electrification
 0343 associations or municipal utilities generating, distributing or
 0344 selling electrical energy for light, heat or power, or for operating
 0345 street railway systems, telephone or telegraph systems, or their
 0346 corporate affiliates and their employees, or employees of railroad
 0347 companies ~~shall not be required~~ to hold licenses while doing
 0348 electrical work for such purposes within their properties or
 0349 within public easements designated for such purposes.

0350 (b) Nothing in this act shall be construed to require any
 0351 individual to hold a license before doing electrical work on such
 0352 person's own property or residence, if such property or residence
 0353 does not share a common wall with another owner's property or
 0354 residence. If, however, such property or residence is intended
 0355 for sale or resale by a person engaged in the business of con-
 0356 structing or remodeling such facilities or structures or is rental
 0357 property which is occupied or is to be occupied by tenants for
 0358 lodging, transient or permanent, or is generally open to the
 0359 public, the owner shall be responsible for and the property shall
 0360 be subject to all the provisions of this act.

0361 (c) Nothing in this act shall be construed to require any
 0362 individual to hold a license before doing any maintenance,
 0363 repair or alteration of existing facilities on such person's own
 0364 property or residence nor require that fees be paid connected
 0365 therewith, as long as such property or residence is not appur-
 0366 tenant to another residence. Likewise nothing in this act shall be
 0367 construed to require any firm or corporation or its regular em-
 0368 ployees to be required to hold a license before doing mainte-
 0369 nance, repair or alteration of existing facilities on the property
 0370 owned or leased by any such firm or corporation.

0371 ~~Sec. 8. Licensing and examination fees shall be established~~
 0372 ~~by the board by adoption of rules and regulations for each~~
 0373 ~~category of license.~~

0374 Sec. 9. The board, or the state electrical director acting as the
 0375 agent thereof, as provided in rules and regulations adopted by
 0376 the board, shall issue temporary permits to engage in the work of
 0377 a master electrician in cases where an electrical contractor no
 0378 longer has the services of any master electrician as required

6. (a) Nothing in this act shall be construed to require

under this act and shall issue temporary permits to engage in the
0380 work of a journeyman electrician or residential wireman to any
0381 applicant who furnishes evidence satisfactory to the board that
0382 such person has the required experience to qualify for the
0383 examination provided for in this act and who pays the fee
0384 provided for in section 4 for such permits. Temporary permits
0385 shall continue in effect only until the next examination is given
0386 and may be revoked by the board at any time. If the applicant is
0387 granted a license, any fee paid for the temporary permit shall be
0388 applied to the fee required for a license.

0389 ~~Sec. 10.~~ To the extent that other states which provide for the
0390 licensing of electricians provide for reciprocal action, the board,
0391 or the director acting as the agent thereof, may issue licenses to
0392 electricians licensed by such other states, upon payment by the
0393 applicant of the required fee and upon furnishing proof to the
0394 board that the applicant has qualifications at least equal to those
0395 provided in this act for applicants' examinations. Applicants who
0396 qualify for licenses under this section are not required to take
0397 written examinations.

0398 ~~Sec. 11.~~ The state electrical board shall establish and charge
0399 fees for the annual renewal of all licenses granted under this act.
0400 Each master electrician, journeyman electrician and residential
0401 wireman licensed under this act shall be required to complete a
0402 course covering changes in the electrical codes and standards
0403 adopted by the board. Such course shall be either offered or
0404 approved by the board within one year of the adoption of such
0405 changes.

0406 ~~Sec. 12.~~ Any person may work as an apprentice or trainee
0407 working at the trade to a licensed electrician but shall not do any
0408 electrical wiring for or installation of electrical apparatus or
0409 equipment for light, heat, power or other purposes except under
0410 the direct supervision of a licensed electrician or residential
0411 wireman. Any electrical contractor, journeyman electrician,
0412 master electrician or residential wireman who is the employer or
0413 supervisor of any electrical apprentice or trainee working at the
0414 trade shall be responsible for the work performed by such
0415 apprentice or trainee. The license of any such contractor, elec-

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0417 trician or residential wireman may be suspended or revoked
 0418 under the provisions of section 13~~7~~ for any improper work per- 10
 0419 formed by an electrical apprentice or trainee working at the trade
 0420 during the time of such person's employment while under the
 0421 supervision of such licensee. The registration of such apprentice
 0422 or trainee may also be subject to suspension or revocation under 10
 0423 the provisions of section 13~~7~~. Upon employing an electrical ap-
 0424 prentice or trainee to work at the trade, the electrical contractor
 0425 shall notify the board within 30 days of such actual employment,
 0426 and the employer shall also notify the board within 30 days of the
 0427 termination of such employment. All electrical apprentices and
 0428 trainees working at the trade for electrical contractors who are
 0429 covered by this act, shall, within 60 days of actual employment,
 0430 register with the board, and the board shall register such ap-
 0431 prentice or trainee upon receiving verification of employment
 0432 and upon such apprentice or trainee paying to the board a fee as
 0433 required by the board. 10
 0434 Sec. 13~~7~~. Any person may prefer charges against any person,
 0435 firm, copartnership, corporation, association or combination
 0436 thereof licensed under this act. In addition, the board on its own
 0437 motion, the attorney general or any county or district attorney
 0438 may file charges. Charges may be filed for:
 0439 (a) Violations of this act;
 0440 (b) violations of the rules and regulations of the board;
 0441 (c) misstatement, misrepresentation, deceit or fraud in ob-
 0442 taining a license;
 0443 (d) incompetence (~~failure to adhere to the codes and stan-~~
 0444 ~~dards adopted by the board shall be prima facie evidence of~~
 0445 ~~incompetency~~);
 0446 (e) gross negligence;
 0447 (f) fraud, deceit or abandonment of contract or misconduct in
 0448 the performance of a contract;
 0449 (g) fraudulent use of any license issued by the board; or
 0450 (h) such other breaches of the law and public policy as the
 0451 board may reasonably consider relevant.
 0452 Such charges shall be in writing, shall be sworn to by the person
 0453 making them and shall be filed with the director. Charges filed

by the board on its own motion shall be signed by the chairper-
0454 son and bear the seal of the board. All charges, unless dismissed
0455 by the board as unfounded or trivial, shall be heard by the board
0456 within three months after the date on which they shall have been
0457 preferred. The time and place for hearing shall be fixed by the
0458 board, and a copy of the charges, together with a notice of the
0459 time and place of hearing, shall be personally served on or
0460 mailed to the last known address of such charged person at least
0461 30 days before the date fixed for the hearing. At any hearing, the
0462 accused shall have the right to appear personally and by counsel,
0463 cross-examine witnesses appearing against the accused and pro-
0464 duce evidence and witnesses in defense. If after such hearing,
0465 three or more members of the board vote in favor of finding the
0466 accused guilty, the board shall reprimand or otherwise disci-
0467 pline, or shall suspend or revoke the applicable license. The
0468 board, for reasons it deems sufficient, may reissue a license to
0469 any person whose license has been revoked and may remove the
0470 suspension of the license of any person whose license has been
0471 suspended, providing three or more members of the board vote
0472 in favor of such reissuance. A new license, to replace any re-
0473 voked, lost, destroyed or mutilated license, may be issued sub-
0474 ject to the rules and regulations adopted by the board, and a
0475 charge established thereby shall be made for such issuance. 11

0476 Sec. 14. Notice of the action of the board in denying or
0477 suspending or revoking a license shall be given by sending a
0478 copy of the order by certified mail to the last known address of
0479 the applicant or licensee. Any applicant or licensee who believes
0480 to be aggrieved by any decision of the board may, within 30 days
0481 after notice or receipt of a copy of the order of the board, appeal
0482 to the district court of the county in which such applicant or
0483 licensee resides, which court shall try the appeal *de novo* and
0484 shall have jurisdiction to affirm, reverse, vacate or modify the
0485 decision complained of. Notice of appeal shall be filed in the
0486 office of the clerk of the district court and a copy thereof served
0487 upon the director within five days thereafter. Upon the filing of
0488 the appeal, the board shall within 20 days file with the clerk of
0489 the district court a certified copy of the transcript including the

0491 records of the board and all evidence introduced during the
0492 proceedings.

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0493 Sec. 15. Any person who practices, or offers to practice as an
0494 electrical contractor, master electrician, journeyman electrician,
0495 residential wireman or in a limited class of electrical work in this
0496 state, without being licensed ~~in accordance with the provisions~~
0497 ~~of this act,~~ or any person presenting or attempting to use as their
0498 own the license of another, or any person who shall give any
0499 false or forged evidence of any kind to the board or to any
0500 member thereof in obtaining a license, or any person who shall
0501 falsely impersonate another of like or different name, or any
0502 person who shall attempt to use an expired, suspended or re-
0503 voked license, or any person who shall violate any of the provi-
0504 sions of this act, shall be guilty of a misdemeanor, and shall upon
0505 conviction, be sentenced to pay a fine of not less than \$100 nor
0506 more than \$1,000, or be imprisoned for not exceeding six months,
0507 or both. The attorney general of the state or the county or district
0508 attorney of any county shall, at the request of the board, render
0509 such legal assistance as may be necessary in carrying out the
0510 provisions of this act. Upon the request of the board, the attorney
0511 general or county or district attorney of the proper county shall
0512 institute in the name of the state or board the proper proceedings
0513 against any person regarding whom a complaint has been made
0514 charging the violation of any provisions of this act. The attorney
0515 general and such county or district attorney, at the request of the
0516 attorney general or of the board, shall appear and prosecute any
0517 and all such actions. When, in the judgment of the board, any
0518 person has engaged in or is about to engage in any acts or
0519 practices which constitute, or will constitute, a violation of this
0520 act, or any valid rule and regulation of the board, the board may
0521 make application to the appropriate court for an order enjoining
0522 such acts or practices, and upon a showing by the board that such
0523 person has engaged in or is about to engage in any such acts or
0524 practices, an injunction, restraining order or such other order as
0525 may be appropriate shall be granted by such court without bond.

when required by

0525 Sec. 16. (a) On or before December 31, 1985, the board shall
0526 issue, without written examination, licenses for master electri-

0527 pians, journeyman electricians and residential wiremen to any
 0528 person who is a resident of the state of Kansas, and:

0529 (1) Who is currently licensed or certified in a like capacity by
 0530 any city, county or city and county of this state, provided such
 0531 license was granted subsequent to the licensee passing an ex-
 0532 amination designed to fairly test the licensee's knowledge and
 0533 the technical application thereof in the class of electrical work
 0534 for which the license was granted; or

0535 (2) if the applicant has no such license or certificate but
 0536 furnishes evidence satisfactory to the board of necessary experi-
 0537 ence and of employment in a like capacity by a bona fide
 0538 employer in this state. Such evidence shall include payroll
 0539 records, tax records, employer's Kansas sales tax number, federal
 0540 identification number, and statements by the applicant and em-
 0541 ployer sworn before a notary public that such statement and
 0542 other evidence is true and accurate.

0543 (b) As no written examination is required for an electrical
 0544 contractor license, the board shall issue such license when the
 0545 applicant furnishes evidence of compliance with the require-
 0546 ments for such license as provided for in subpart (b)(1) of section
 0547 6.

0548 (c) After December 31, 1985, the board shall issue licenses
 0549 only as provided for in section 6.

0550 ~~Sec. 17.~~ This act may be known and cited as the Kansas
 0551 electrical licensing act. 13

0552 ~~Sec. 18.~~ If any section or sections of this act shall be declared
 0553 unconstitutional or invalid, this shall not invalidate any other
 0554 sections of this act. 14

0555 ~~Sec. 19.~~ This act shall take effect and be in force from and
 0556 after its publication in the statute book. 15

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend House Bill No. 2202, As Amended by House Committee, on page 4, following line 146, by inserting:

"New Sec. 4. As used in this act:

(a) "Commission" means the state corporation commission.

(b) "Closing" means the time at which a nuclear power generating facility ceases to generate electricity and is retired from active service.

(c) "Decommissioning" means the series of activities undertaken beginning at the time of closing of a nuclear power generating facility to ensure that the final disposition of the site or any radioactive components or material, but not including spent fuel, associated with the facility is accomplished safely, in compliance with all applicable state and federal laws. Decommissioning includes activities undertaken to prepare such a facility for final disposition, to monitor and maintain it after closing and to effect final disposition of any radioactive components of the facility.

(d) "Decommissioning costs" means: (1) All reasonable costs and expenses of removing a nuclear power generating facility from service, including, without limitation, dismantling, mothballing, removing radioactive waste material, except spent fuel, to temporary or permanent storage sites, decontaminating, restoring and supervising the site and any costs and expenses incurred in connection with proceedings before governmental regulatory authorities relating to the authorization to decommission the facility; (2) all costs of labor and services performed or rendered in connection with the decommissioning of the facility and all costs of materials, supplies, machinery, construction equipment and apparatus acquired for or in connection with the

3/28/85
ATTACH F.

decommissioning of the facility. Any amount, exclusive of proceeds of insurance, realized by a licensee as salvage on or resale of any machinery, construction equipment and apparatus, the costs of which was charged as a decommissioning cost, shall be treated as a deduction from the amounts otherwise payable on account of the cost of decommissioning of the facility; and (3) all overhead costs applicable to the facility during the decommissioning period, including, but not limited to, taxes, other than taxes on or in respect of income, licenses, excises and assessments, casualties, surety bond premiums and insurance premiums. All moneys expended or to be paid with respect to decommissioning a facility shall constitute part of the decommissioning costs if they are, or when paid will be, either properly chargeable to any account related to decommissioning of a facility in accordance with the systems of accounts then applicable to the licensee, or properly chargeable to decommissioning of a facility in accordance with then applicable regulations of the United States nuclear regulatory commission, the federal energy regulatory commission or any other regulatory agency having jurisdiction.

(e) "Licensee" means (1) the holder of the construction or operating permit from the United States nuclear regulatory commission for a nuclear power generating facility located in the state, if there is only one holder of such a permit or (2) if there are two or more holders of such a permit, those holders which are primarily responsible for the construction or operation of the facility.

(f) "Owner" means any electric utility which owns any portion of a nuclear power generating facility whether directly or through ownership of stock in a company which owns any portion of such a facility.

(g) "Electric utility" means every public utility, as defined by K.S.A. 66-104 and amendments thereto, which owns, controls, operates or manages any equipment, plant or generating machinery for the production, transmission, delivery or

furnishing, of electricity or electric power.

(h) "Premature closing" means the closing of a nuclear power generating facility before the projected date of decommissioning as projected in the decommissioning financing plan prepared under section 2.

~~(i) "Prompt removal and dismantlement" means the immediate removal of radioactive or radioactively contaminated material down to allowable residual levels which permit release of the property for unrestricted access.~~

New Sec. 5. (a) Any licensee operating a nuclear power generating facility located in the state on the effective date of this act shall submit a proposed decommissioning financing plan for the facility to the commission not later than December 31, 1985. Any licensee constructing such a facility on the effective date of this act shall submit such a plan to the commission ~~not later than one year after the licensee begins~~ before commercial operation of the facility.

(b) The decommissioning financing plan shall include:

(1) An estimate of the date of closing of the nuclear power generating facility;

(2) an estimate of the cost of decommissioning the facility, expressed in dollars current in the year the plan is prepared, and based on an engineering report issued within three years of the date the plan is submitted to the commission;

(3) the share of the estimated decommissioning costs attributed to each owner;

(4) a plan for funding the decommissioning and, if such funding is to be accomplished by prepayment or accruals to an external fund, a plan for placement of funds in high grade nonspeculative investments;

(5) plans for periodic review and updating of the plan, including the cost of decommissioning estimated under paragraph (2);

(6) the amount of money which customers of each owner have been charged for the decommissioning up to the date of submission

of the plan and the total amount necessary to meet the projected decommissioning costs of the facility, over the remaining useful life of the facility;

(7) plans and options for insuring against or otherwise financing premature closing of the facility;

(8) reasonable assurance of responsibility in the event of insufficient assets to fund the decommissioning;

(9) a description of the stages by which decommissioning is intended to be accomplished;

(10) a fully executed decommissioning financing agreement between the licensee and each owner, evidencing each owner's acceptance of its respective share of the ultimate financial responsibility for decommissioning. In satisfaction of this requirement, the licensee may submit existing ownership agreements together with documentation from each owner of the applicability of the agreement to the case of financial responsibility for decommissioning; and

(11) any other information related to the financing of decommissioning which the commission requests.

New Sec. 6. (a) The state corporation commission shall hold a public hearing on each proposed decommissioning financing plan submitted under section 2. The commission may hold such hearing in conjunction with ~~its proceedings on a proposed~~ rate amendment proceedings filed by an owner of the facility.

(b) The commission shall approve such a plan if it finds that the licensee has provided reasonable assurances that: (1) The estimated time of closing of the nuclear power generating facility and the estimated cost of decommissioning are reasonable; (2) the licensee and the owners of the facility can adequately fund the decommissioning and, if such funding is to be accomplished by prepayment or accruals to an external fund, a plan for placement of funds in high grade nonspeculative investments; (3) the share of the estimated cost of decommissioning for each owner of the facility is reasonable; (4) the plans and options for insuring against or otherwise financing

any shortfall in decommissioning funds resulting from a premature closing are adequate and reasonable; (5) the owners are legally bound to accept their respective shares of the ultimate financial responsibility for decommissioning as provided under section 5; and (6) the plan will periodically be reviewed and revised to reflect more closely the costs and available techniques for decommissioning. This update shall occur at least every five years.

(c) If the commission finds that the decommissioning plan does not meet the criteria under subsection (b), it shall reject the plan and order that it be modified as the commission deems necessary to meet such criteria.

New Sec. 7. (a) If the commission approves a decommissioning financing plan under section 3, it shall, at least every five years until the facility's closing and at least annually after the closing, review the financing plan to assess its adequacy. If changed circumstances make a more frequent review desirable or if the licensee requests it, the commission may review the plan after a shorter time interval. The review shall include, but not be limited to, the following considerations: (1) The estimated date of closing the nuclear power generating facility; (2) the estimated cost of decommissioning; (3) the reasonableness of the method selected for cost estimate purposes; and (4) the adequacy of plans for financing the decommissioning and any shortfall resulting from a premature closing.

(b) The commission, after conducting a review under subsection (a), may, after a hearing, order such changes in the decommissioning financing plan as it deems necessary to make the plan comply with the provisions of subsection (b) of section 3.

New Sec. 8. (a) If the funds allocated for decommissioning are insufficient to pay for decommissioning costs, the licensee shall first be responsible for the additional cost if it is the only holder of an operating permit from the United States Nuclear Regulatory Commission with respect to the facility.

(b) If the assets of such a licensee are insufficient to cover the remaining cost of decommissioning after such funds are exhausted, or if there are two or more holders of an operating permit from the United States Nuclear Regulatory Commission with respect to the facility, the owners shall be liable for the safe and proper decommissioning of the nuclear power generating facility in accordance with their respective ownership shares in the facility. If, under this subsection, any in-state owner pays decommissioning costs in excess of its ownership share in the facility, that owner shall have a cause of action to recover that excess from the other owners. The attorney general shall assist in bringing such an action.

(c) The state shall have no financial responsibility for decommissioning. If the governor finds that, because of inadequate action by the responsible parties in carrying out decommissioning, protective action is reasonably required to protect the public health and safety, the state may undertake that action. In that case, the attorney general shall bring action against the licensee and the owners to recover the cost of that protective action. If the state pays for any decommissioning costs as a result of an owner paying less than its share of a facility's decommissioning costs, the attorney general shall bring an action against such owner to recover any such costs paid by the state.

(d) The commission shall include all decommissioning costs funding requirements of an electric utility, which are approved by the commission under sections 3 and 4, as-operating-costs in the revenue requirements of the utility, provided no decommissioning costs for a facility may be included in the rates charged by the utility after the date of closing of the facility ~~unless--the--commission--determines--(1)--that--the--utility--has complied-with-the-decommissioning-financing-plan-under-which-such costs--are-incurred-and-(2)--that--there-are-compelling-reasons-for including-such-costs-in-the-rates.~~

New Sec. 9. Except as provided under federal law, no costs

for damage associated with or caused by the incident at Unit 2 of the Three Mile Island Nuclear Power Station near Middletown, Pennsylvania or costs for damage associated with or caused by any incident at any other nuclear power generating facility shall be placed in the rate base of an electric utility or included, directly or indirectly, as operating expenses of that utility for purposes of rate-making. Such costs include, but are not limited to: (1) Capital expenditures, new plant investment, amortization of unrecovered plant investment, reconstruction and repair of existing plant and equipment; (2) the costs of crisis response, replacement power and service for the duration of the shutdown; (3) the costs of decontamination and the clean-up and disposal of hazardous materials; (4) costs associated with shutdown and decommissioning; (5) personal and property liability due to the incident; and (6) federal, state and local government civil and criminal penalties resulting from the incident.";

By renumbering sections 4 and 5 as sections 10 and 11;

In the title, in line 18, by striking all after "ACT"; in line 19, before "corporation" by inserting "concerning public utilities; relating to the powers of the state"

_____ District.