

Approved

Date

2/14/89

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs

The meeting was called to order by Senator Edward F. Reilly at  
Chairperson

11:07 a.m./~~p.m.~~ on February 9, 1989 in room 254-E of the Capitol.

All members were present except:

Senator Ehrlich who was excused.

Committee staff present:

Mary Galligan, Legislative Research Department  
Marty Robison, Secretary

Conferees appearing before the committee:

Kathryn Dysart, Wichita Public Schools  
Bill Curtis, Kansas Association of School Boards  
Mike Merriam, Kansas Press Association  
Henry W. Schirmer, Board of Technical Professions  
Roger Schenewerk, ASLA, Landplan Engineering  
Professor Dennis Law, Head of Landscape Arch. Dept., KSU

Chairman Reilly called the meeting to order.

Senator Morris moved the minutes of February 7 be approved. Senator Yost seconded and the motion passed.

A hearing was held on SB 92 which deals with closed public meetings on preliminary discussion of land sales.

Kathryn Dysart asked for support to amend the Kansas law relating to the subjects which can be discussed in executive session by elected bodies. While they can now have preliminary discussions when acquiring a piece of property, they would also like the same benefits of private preliminary discussion when they are considering selling a piece of property. All official transaction discussion would still take place in public session (Attachment 1).

Committee members expressed concern over the language and definition of "preliminary discussion".

Bill Curtis appeared in support of SB 92. He also asked committee members to consider amending the bill by adding language to permit boards of education to discuss self-evaluation in executive session (Attachment 2).

Michael Merriam opposed this bill because it would further erode the public policy of Kansas that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public (Attachment 3). In 1977, the Legislature did consider allowing both the sale and acquisition of property to be reasons for Executive Sessions and rejected the sale discussions. Since the sale is obtained by competitive bids, there is no need for secrecy. He told members that self-evaluation meetings are precisely the type of topic that need to be made public.

A hearing was held on SB 104 which deals with amendments concerning licensure of technical profession and authorizing the imposition of civil fines.

Henry Schirmer outlined the amendments proposed to revise the current laws that govern the technical professions (Attachment 4). Some of the proposed changes in administration would include increased fees, deadline changes on applications, and establishing set times for terms of office. Stringent qualifications for licensure would state that the educational and experience requirements of each profession consist of a total of 8 years. Professionals must have a degree in their area of licensure, rather than "related sciences".

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs,  
room 254-E, Statehouse, at 11:07 a.m./~~pm~~ on February 9, 1989.

The Board would accept proposals for clarification of the differences between each of the technical professions. The amendment would clarify that some activities could occur by an individual other than a licensed technical professional as long as the uniform building code or life safety code was not involved. Amendments for the enforcement of these goals were: 1) responsible supervision and control by the preparer who seals the document, 2) clarification of title law versus practice law, 3) signature used along with the seal, 4) assessment of civil fines against any person or entity for violations, 5) issuance of building permits would not be accepted without the technical professional's seal, and 6) would allow the Board to discipline anyone who acted with wanton disregard for the rights of others. The last section would require that technical professionals be a regular employee of that corporation in each area of practice. The Board asked that the committee give careful consideration of any proposed changes to SB 104 as presented.

Roger Schenewerk appeared in support of the bill but did request that the bill be amended to allow taking an examination upon graduation from an approved university curriculum (Attachment 5). Currently, licensure and examination cannot occur until the individual has completed a specified period of professional experience.

Professor Dennis Law agreed with the efforts to make similar requirements for licensure of the various professions governed by the Board of Technical Professions. He did, however, offer three amendments (Attachment 6). The first stated that teachers did not have to be licensed. The second request was that the Board not approve the curriculum, but rather, the program of study. The last amendment would allow the graduates of the approved programs to take the examination any time after graduation. Licensure would still occur at the end of the designated apprenticeship.

The chairman announced that continued hearings on this bill will be held on Tuesday, February 14 at 11:00.

The meeting was adjourned at 12:05.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: 2/9/89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
<i>DALE DRONBERGER</i>	<i>1020 N MAIN HUTCHINSON</i>	<i>KS BTP</i>
Gustave E. Fairbanks	2128 Blue Hills Rd Manhattan, Kans 66502	Kans St. Bd. of Tech. Prof.
<i>Mike Conduff</i>	<i>Manhattan</i>	<i>KS BTP</i>
<i>Lori Callahan</i>	<i>Topeka</i>	<i>KS BTP</i>
<i>Betty Fox</i>	<i>Topeka</i>	<i>KS BTP</i>
<i>Army W. Schuman</i>	<b>TOPEKA</b>	<b>KS BTP</b>
VANCE W LISTEN	TOPEKA	KS SOCIETY ARCH
Thomas M. Colgrove	Prairie Village	KS. BOARD of Tech. Prof
Bill Shaefer	Overland Park	" " " "
<i>TRUDY ARON</i>	<i>Topeka</i>	<i>KS Soc. of Architects</i>
<i>TED D. AVRES</i>	<i>TOPEKA</i>	<i>KS BOARD OF REGENTS</i>
<i>Shelley Sutton</i>	<i>TOPEKA</i>	<i>KS Engineering Soc.</i>
<i>Rita Noll</i>	<i>Topeka</i>	<i>Atty Gen.</i>
Mike Garrison	Leawood	A.C. Kinkwood & Assoc
JAMES BUSH	Topeka	Ks. Dept of TRANSP.
Jim Jones	Topeka	Ks Dept of Transp
Bill Curtis	Topeka	Ks. Assoc. of School Bldg.
Mike German	Wichita	Boeing Military Appliances
<b>BILL HENRY</b>	<b>TOPEKA</b>	<b>KS Engineering Society</b>
DENNIS L. LAW	MANHATTAN	KANSAS STATE UNIVERSITY DEPT. OF LANDS-ARCH.
<i>Koger L. Schenewerk</i>	<i>Lawrence</i>	<i>London Eng/PKG PA</i>
<i>Theresa Dupont</i>	<i>Wichita</i>	<i>USA 259</i>
<i>Belva Ott</i>	<i>Wichita</i>	<i>Planned Parenthood KS</i>
	<i>Quinn</i>	



**WICHITA PUBLIC SCHOOLS**  
*Unified School District No. 289*  
**ADMINISTRATION CENTER**  
**217 N. WATER**  
**WICHITA, KANSAS 67202**

**Testimony of Kathryn Dysart on February 9, 1989**

Senate Bill 92, which proposes to amend the Kansas law relating to the subjects which can be discussed in executive session by elected bodies, would be very helpful to the Wichita Board of Education. Under current law, board members may have preliminary discussions among themselves and with their agents when they are interested in acquiring a piece of property. The reasons for this are obvious. It would be very difficult for school districts to buy a piece of property at the lowest fair price if they had to announce to the world their initial interest in doing so. Under this law, they can have private talks about their options before they enter into public negotiations.

Senate Bill 92 offers elected officials the same benefits of private preliminary discussion when they are considering selling a piece of property. Perhaps I can explain why this is so important to the Wichita School Board at this time. Districts such as ours have experienced extraordinary changes in demographics in the last couple of decades. Center city areas were once full of families and children. They have now become almost exclusively commercial. The district owns several pieces of property in the downtown area which are quite valuable but no longer useful to us for schools. We would like to sell those properties... and naturally, would like to get the very best price possible for them. Profits received from such sales will help to offset the cost to district taxpayers for providing education for our children. A good deal for the district is a good deal for the citizens whose tax dollars support us.

Any of you who have ever sold a home can imagine what it would be like if you couldn't talk to your spouse or agent about what you hope to get, or what your real "bottom line" is, without doing so under the scrutiny of all potential buyers. If you were to say, "I'd really like to get \$80,000, but I'd take \$65,000," and that conversation was reported on the six o'clock news, you wouldn't get very many offers at the higher price.

Those of you in business know how important discretion can be to an important capital transaction. School districts must be run efficiently and by sound business practices. This bill would enable school boards to privately discuss transactions important to the fiscal efficiency of the

SFA SA  
2-9-89

Attachment 1

district. That is good business for for districts and for those who support them.

These, of course, would be preliminary discussions only, and all official transaction discussion would still take place in public session. We contend that the public's right-to-know would be in no way be harmed, and elected bodies ability to effeciently govern their bodies would be enhanced with the passage of this measure.



Testimony on SB 92  
before the  
Senate Federal and State Affairs Committee

by

Bill Curtis, Assistant Executive Director  
Kansas Association of School Boards

Mr. Chairman and members of the committee, we appreciate the opportunity to testify today on SB 92 on behalf of the Kansas Association of School Boards. KASB supports SB 92 as it adds authority for boards of education to discuss the sale of real property in executive session.

Boards of education have statutorily authorized powers to adjourn to executive session. Any reason not listed in the law would be excluded from executive session. KASB believes that the business of schools should be conducted in the open. However, there are times when subjects need to be discussed prior to any action and that discussion should be allowed to take place in a confidential setting. This bill does not change anything other than the reasons listed for executive session. The committee should be aware that another bill has been introduced by the Senate Education Committee that deals with the manner of property disposal.

We thank you for your attention and urge you to pass SB 92 favorably.

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Attachment 2

While on the subject of executive session, KASB would like the committee to consider amending SB 92 by adding language that would permit boards of education to discuss self-evaluation in executive session. A number of boards are now using various models to conduct annual self-evaluation session. A number of boards have indicated that the exercise is not as productive as it could be as members of the board are reluctant to be critical in open session. KASB believes that boards could profit from a better working relationship within the board if self-evaluation could be conducted in executive session. The KASB Legislative Committee was unanimous in endorsing a new policy for KASB in seeking legislative authority for executive session on the subject of self-evaluation.



Testimony of Michael W. Merriam, Counsel to the  
Kansas Press Association Before the  
Committee on Federal and State Affairs

February 9, 1989

Re: SB 92

SB 92 is a bad law. It would further erode the public policy of Kansas that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public, explicitly expressed in K.S.A. 75-4317.

Executive sessions are already being used daily across Kansas to subvert the goals of the Open Meetings Act. Legislative blessing of an additional excuse for secrecy should be closely examined and must be supported by a compelling need.

This bill is designed to "reverse" Attorney General Opinion 87-91, which held that the law means exactly what it says: an executive session is only appropriate for discussing the acquisition of real property, not the sale. The reason is generally expressed in a law review article from 1981 by Smoot and Clothier. Public knowledge of a governmental land purchase increases prices to the detriment of taxpayers. Most such acquisitions are from private parties who are free to set their price prior to condemnation proceedings, and public knowledge of the amount the government is willing to pay will naturally destroy the useful effect of price negotiation.

On the other hand, there is no valid purpose for secrecy when the government sells land, because virtually all such sales require appraisals - with legally required minimum acceptance prices - and/or competitive bids from purchasers. The privacy attached to negotiating a price is neither present nor necessary. Other aspects of land purchases and sales exist, but are far less important and would not support any compelling need for secrecy.

The only apparent reason for wanting to discuss a possible sale price is if the governing body was contemplating the need to "cut a deal" in secret.

Since 1977, only one new subject supporting executive sessions has been adopted (pertaining to the Lottery Commission and confidential information). The Kansas Press Association strongly opposes any attempt to reverse the progress being made towards open government and urges the Committee to report SB 92 unfavorably for passage.

SF & SA  
2-9-89

Attachment 3



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

June 19, 1987

MAINTENANCE SUPPLEMENT CODE  
JUL 8 1987  
EXHIBITARY  
MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 87- 91

Harold T. Walker  
City Attorney  
Ninth Floor, Municipal Office Building  
One Civic Center Plaza  
Kansas City, Kansas 66101

Re: State Departments; Public Officers and Employees --  
Public Officers and Employees; Open Public Meetings  
-- Executive Sessions; Acquisition of Property

Synopsis: Under the Kansas Open Meetings Act (KOMA), public bodies may recess into an executive session to discuss only those six subjects listed in the act. K.S.A. 75-4319(b) (6) provides that discussions concerning the acquisition of real property by a public body may take place in a closed meeting. Therefore, discussions relating to the sale of real property owned by a public body must be held in an open meeting. The procedures to be followed in conducting an executive session and in returning to an open meeting are left to the discretion of the members of the body as the KOMA does not regulate the operation of executive sessions. Cited herein: K.S.A. 75-4317; K.S.A. 1986 Supp. 75-4318; K.S.A. 75-4319.

\* \* \*

Dear Mr. Walker:

As the attorney for the City of Kansas City, Kansas, you request our opinion on two questions concerning the Kansas Open Meetings Act (KOMA), K.S.A. 75-4317 et seq.

Your first question is whether a public body, such as the City Council of Kansas City, may discuss in an executive session the sale of real property owned by the city. The KOMA provides that meetings of public bodies must be open to the public. K.S.A. 1986 Supp. 75-4318(a). A public body may, however, recess into a closed meeting for the purpose of discussing one of the six subjects listed in the act. K.S.A. 75-4319(b)(6) states that an executive session may be called for "preliminary discussions relating to the acquisition of real property." (Emphasis added). It is your belief that the city council may discuss the sale of city property behind closed doors because K.S.A. 75-4319(b)(6) does not specifically state that the "acquisition" of real property must be by the city as opposed to being from the city.

The sixth exception to the open meetings law was discussed in Smoot and Clothier, Open Meetings Profile: The Prosecutor's View, 20 Washburn L.J. 241, 278 (1981):

"Finally, the 1977 Kansas Legislature included an exception to the open meetings mandate for 'preliminary discussions relating to the acquisition of real property.' Many states have adopted similar provisions to protect against adverse effects of publicity when public knowledge of a governmental land purchase would increase prices to the taxpayer's detriment. This reduces the scope of the exceptions to those situations in which the government is the purchaser. This interpretation also is consistent with the legislature's choice of the word 'acquisition' rather than 'sale' or other terms suggesting the applicability of the exception when the governmental body is the seller."

To give effect to the policy of openness in government, the KOMA is interpreted liberally and its exceptions narrowly. See K.S.A. 75-4317. It is a fundamental rule of statutory construction that "ordinary words are to be given their ordinary meaning." State v. Kitzman, 240 Kan. 191, 193 (1986), quoting State v. Cole, 238 Kan. 370, 372 (1985). Words used in a statute "are to be understood in their plain and ordinary sense." Lakeview Gardens, Inc. v. State, ex rel. Schneider, 221 Kan. 211, Syl. ¶ 1 (1976).

It is our opinion that a public body may not go into an executive session to discuss the sale of publicly owned property. The exceptions to the KOMA are to be strictly construed. Had the legislature intended to allow public bodies to discuss the sale of realty in private, it would have so provided. The language used in K.S.A. 75-4319(b) listing the subjects which may be discussed in a closed meeting must be interpreted as applying to that public body. Otherwise, the intent and purpose of the open meetings law would be thwarted. For example, K.S.A. 75-4319(b)(1) provides that an executive session may be had to discuss personnel matters. It would be against the rules of statutory construction and contrary to the open meetings law to interpret this provision as meaning that a city council could discuss matters concerning employees of an entity other than the city. In like manner, the language of K.S.A. 75-4319(b)(6) must be interpreted as applying to the public body seeking to recess into executive session. Therefore, the acquisition of realty must be by the city, not from the city, before exception six is applicable.

You also inquire as to the proper method "to remove a [public] body from Executive Session." The KOMA provides that to recess into an executive session a formal motion must be made, seconded, and carried containing a statement of the justification for the closed meeting, the subjects to be discussed, and the time and place the open meeting is to resume. K.S.A. 15-4319(a). The Act contains no provisions regulating the conduct of members of a public body while in an executive session. Thus, the procedure to be followed in an executive session is left to the members' discretion. The decision to return to open meeting is generally made by consensus of the members that discussion of the matter has come to an end. As you suggest, members of a public body may follow the rules of parliamentary procedure while in an executive session to insure orderly conduct of the meeting. In such a case a motion would be made, seconded, and carried to return to open meeting. It is important to remember that the public body must return to open meeting at the time stated in the motion. If more time is needed behind closed doors, an additional motion must be made.

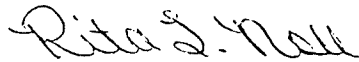
In summary, discussions concerning the sale of real property owned by a public body must be held in open meeting as K.S.A. 75-4319(b)(6) provides only that the discussions concerning the acquisition of real property by a public body may take place in an executive session. The procedures to be followed in conducting an executive session and to return to open

meeting are left to the discretion of the members of the body as the KOMA does not regulate the operation of executive sessions.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Rita L. Noll  
Assistant Attorney General

RTS:JLM:RLN:bas



# KANSAS STATE BOARD OF TECHNICAL PROFESSIONS

(913) 296-3053

Suite 507, Landon State Office Building 900 Jackson Street Topeka, Kansas 66612-1214

TESTIMONY ON S.B. 104  
SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
FEBRUARY 9, 1989

Mr. Chairman, and Members of the Committee:

My name is Henry W. Schirmer, and I am the Chairman of the Board of Technical Professions.

## BACKGROUND ON THE BOARD OF TECHNICAL PROFESSIONS

The Board of Technical Professions is the state licensing and regulatory agency for the professions of architecture, engineering, landscape architecture, and land surveying. The Board of Technical Professions was created by the 1976 Legislature by merging these separate boards into a "Combined" Board. In 1979, the Technical Professions Act was amended to allow the corporate practice of the technical professions. Since then no major revisions have been made to the Act.

The stated purpose of the Board is to establish and maintain a high standard of integrity, skills and practice in the technical professions and to safeguard the life, health, property and welfare of the public. This is accomplished through the issuance of licenses to all applicants who have met the statutory requirements; investigating all inquiries and complaints regarding the practice of the technical professions; and the establishment and maintenance of all licensee records of the approximately 20,000 individuals and corporations licensed by the Board.

The board maintains an office in Topeka, and employs a staff of four full-time state employees, including the executive secretary. The board is comprised of nine (9) members, appointed by the Governor who represent the various professions and the public. The members serve four-year rotating terms.

The Board is operated entirely by the fees paid by the applicants and registrants. Twenty percent (20%) of the fees collected by the board is deposited to the State Treasurer, and eighty percent (80%) is credited to the agency's fee fund. The agency expenditures are appropriated each fiscal year through the legislative/budget process.

## PROPOSED LEGISLATION

The proposed legislation consists of a comprehensive package that would revise the current laws that govern the technical professions. The board has studied these revisions extensively. That research has included the study of laws in other states, other agencies within the state of Kansas, and obtaining input from professional societies and various national organizations.

These revisions encompass proposed changes in the following general areas: Agency administration, Qualifications for Licensure, Definitions of Practice, Exemptions from Practice, Disciplinary/Enforcement, and Corporate Practice.

### 1. Agency Administration

The proposed changes in this category would increase some of the funds currently assessed by the Board of Technical Professions to provide a more accurate relationship to the costs involved in the administration of the Board's duties. Pursuant to statute, 20% of the revenue from the fees the Board currently collects is credited to the state treasury, and 80% is retained in the Board's fee fund. The Board's entire operating budget is administered out of this fee fund. The fees which are increased include examination application fees, fees for reissuance of a lost license, and the fees for reissuance of a suspended license or certificate of authority. The proposed changes make the fees consistent with the costs involved. Additionally, even with the proposed increases, the fees are still low compared to other states.

Other administrative changes in S.B. 104 include the information which is required for applications, changing the deadlines for applications for examination which makes the deadlines consistent with other states, requiring licensees to inform the Board of any change of address, and requiring that the terms of the Board members should begin and end at a set time.

### 2. Qualifications for Licensure

The prime responsibility of the Board of Technical Professions is to protect the state of Kansas and its citizens from the practice of the technical professions by those not properly educated, trained or tested in the professions. Issues such as the collapse of the sky walk at the Hyatt Regency Hotel in Kansas City, Missouri, focus on the importance of the involvement of the technical professions in public safety. The Board feels that the most effective manner in which it can assure the public that only those who are properly educated and trained should receive licenses to practice the technical professions in the state of Kansas is by stringent qualifications for licensure. It is better to prevent an individual from obtaining a license in the first place, rather than allowing them to obtain a license, only to discover that their inadequate training left them incapable of handling the practice of the technical professions. If this occurred, an individual's license could be revoked, however, the damage would have already been done.

Additionally, when the state of Kansas designates an individual as a licensed "professional" of the technical professions, this title implies to the public that this individual has been determined by the state of Kansas to have adequate education, training, and testing to prove that that person is prepared to practice the technical professions. Each of these three requirements: education, experience, and testing, are essential to obtain professional status. Currently, each of the technical professions has differing requirements regarding these three categories of qualification. Under the proposed bill, the educational and experience requirements of each profession would consist of a total of 8 years.

Specifically, S.B. 104, with regard to engineers, would require engineers, in order to obtain an engineering license, to have an engineering degree. Currently, engineers are entitled to fulfill their educational requirements through the "related sciences." Other professionals such as accountants, nurses, lawyers and doctors, are not entitled to be licensed if they do not have a degree in their area of licensure. Education is an essential element of the training of a professional. In order to adequately protect the public and the integrity of the state's declaration that someone is entitled to be licensed, it is essential that there be minimal education requirements, the very least of which is an educational background in the area of licensure. Additionally, current Board of Technical Profession statistics indicate that of those seeking engineering licenses, less than 1% have degrees in the "related sciences."

Those who would argue against any of the proposed qualifications involving education, training or testing, are asking the legislature to make a policy decision regarding the safety of the public. It is the opinion of the Board of Technical Professions, which is composed of members of each of the technical professions, that the qualifications as proposed are essential to assuring the safety of the public, as well as the integrity of the license designation.

The bill eliminates reference to national accrediting boards. This language was proposed by the office of the Revisor of Statutes to address an unconstitutional delegation of legislative authority pursuant to, Gumbhir vs. KS State Board of Pharmacy, 228 Kan. 579, 618 P. 2d 837 (1980).

### 3. Definitions of Practice

K.S.A. 74-7003 provides definitions of each of the technical professions, as well as the practice of these professions. These definitions were developed in conjunction with input from the societies which represent each of the technical professions. The Board feels that changes are necessary to clarify the differences between each of the professions. Several of the license revocation hearings, with which the Board has been involved, have required the Board to interpret the practice of the technical professions as distinguished from each other. Currently, an individual may not practice any of the technical professions unless that individual is licensed in that technical profession. In other words, an architect cannot practice engineering without an engineering license. Accordingly, due to its involvement in these cases, it was the opinion of the Board that clarification was necessary in order to distinguish between each of the professions.



Any proposals made by any groups with regard to these definitions, would be acceptable to the Board of Technical Professions, as long as these amendments additionally clarified differences between each of the technical professions.

#### 4. Exemptions from Practice

Currently, there are exemptions for certain types of activities which may be conducted by an individual other than a licensed professional. These include store fronts or facades, cabinet work, furniture, appliances and other exemptions. The proposed amendment would clarify that these activities could occur by an individual other than a licensed technical professional as long as the uniform building code or life safety code was not involved. This is consistent with other states' statutes in this area and provides better clarification of when a licensed professional must be involved in a project.

#### 5. Enforcement/Disciplinary

Second in importance to the Board in protecting the public health and safety, after education, is the ability of the Board to discipline those licensed professionals who practice the professions negligently or incompetently. Further, in order to protect the public safety, the statutes must stringently protect against the practice of the technical professions by those other than licensed professionals. In order to achieve these goals, the following amendments are suggested:

(a) Responsible supervision and control. Currently, K.S.A. 74-7026(a)(5) provides that an individual licensed in the technical professions who seals documents, may only do so if that individual has exercised "responsible supervision or control over the preparation of the plans." K.A.R. 66-6-4(e) allows an individual to stamp plans "if they are prepared under that individual's direct supervision and control." This inconsistency has resulted in the inability of the Board to enforce this particular provision. While the Board could amend its regulation to be consistent with the statute, in fact, it appears that the regulation may in fact establish a stricter standard than the statute. Since the Board is interested in preventing the stamping of plans by those in the technical professions who have not conducted the appropriate degree of review over plans, it is suggested that the statute be amended to be consistent with the regulation.

(b) Title law versus practice law. Within the technical professions, title laws are laws which prohibit an individual from utilizing the name of a particular technical profession, unless that individual is licensed to practice that particular area of the technical professions. A practice law prohibits an individual from practicing the technical professions without being licensed. Proposed amendments contained in this bill would clarify the title and practice provisions in the state of Kansas.

(c) Seal usage. Some amendments proposed herein would affect the use of a seal of an individual in the technical profession. One provision would require the professional's signature to be signed along with the seal to clarify that in fact that professional endorsed the use of his seal on the documents. Further, the bill would prohibit individuals from tampering with their seal without the express written approval of the Board. This would prevent fraudulent use of a seal.

(d) Civil fines. New section 25 would allow the Board of Technical Professions to assess civil fines after proper notice and an opportunity to be heard, against any person or entity violating the Board's statutes or rules and regulations. Currently, the Board only has power to revoke or suspend licenses, the authority to civilly fine would allow the Board to effectively discipline an individual who was retired from the technical professions, or an individual not licensed by the Board of Technical Professions.

(e) Issuance of building permits. New section 24 of this bill would provide that public officials charged with the enforcement of building codes to not accept any technical submissions unless those submissions have been stamped with the technical professional's seal as required by the statutes governing the Board of Technical Professions. This would assure the pertinent division of local government, as well as the public, that the project receiving the permit fully met the requirements of preparation by a licensed professional.

(f) Wanton disregard for the rights of others. K.S.A. 74-7026(a) currently allows the Board to discipline an individual who acted with gross negligence, incompetency or misconduct. The bill would allow the Board also to discipline anyone who acted with wanton disregard for the rights of others in the practice of any of the technical professions. Wanton conduct is defined in the Pattern Instructions for Kansas, Civil 3.02 as, "An act performed with the realization of the imminence of danger and a reckless disregard or complete indifference to the probable consequences of the act."

## 6. Corporate Practice

K.S.A. 74-7035 governs the practice of the technical professions by corporations. Currently, pursuant to this act corporations are required to attain certificates of authorization upon submission of certain information to the Board of Technical Professions. Professional corporations are not now included in this requirement. The bill would change that so that professional corporations would also be included.

Further amendments to this statute would also provide that corporations could no longer hire token technical professionals, but rather if the corporation is to be performing a certain area of the technical professions, they must now have a regular employee of the corporation, who is a member of its board of directors and a holder of its stock, in that area of practice.

7. Recommendations

The Board of Technical Professions would request careful consideration of this bill by this Committee. The proposals have arisen after years of consideration of the Board concerning inconsistent or vague statutes. The input of society and major corporations in Kansas has been actively solicited by the Board in preparation of this legislation. While certain associations and entities may disapprove or offer alternative language to certain provisions, the Board would stress that the amendments proposed herein, are in the Board's opinion necessary and essential to the adequate protection of the public. If opponents suggest modifications to certain provisions, the Board would request that the Committee understand that the bulk of the amendments are not objectionable and would request careful consideration of any proposed changes to SB 104 as presented.

Henry W. Schirmer, Chairman  
Architect Member

Michael A. Conduff, Vice-Chairman  
Engineer Member

Wm. I. Shafer, Secretary  
Land Surveyor Member

Thomas M. Colgrove  
Landscape Architect Member

Dale Dronberger  
Architect Member

Gustave E. Fairbanks  
Engineer Member

Richard McAnany  
Public Member

Charles A. Stryker  
Engineer Member

SENATE BILL NO. 104

COMMITTEE ON FEDERAL AND STATE AFFAIRS  
SENATOR ED REILLY, CHAIRMAN

PROPONENT TESTIMONY BY:

Roger L. Schenewerk, ASLA  
Vice President  
Landplan Engineering, P.A./PKG Design Group, P.A.  
Member Prairie Gateway Chapter, American Society of  
Landscape Architects

As a principle of a multi-disciplined design and technical professional association, I would like to officially state my support, personally and professionally, for the proposed Senate Bill 104 for the following reasons:

1. It continues to encourage professional team effort on projects without prejudice.
2. It encourages single-disciplined practitioners to approach projects with broader and deeper perspective than their training and experience provides thus giving their client and public opportunity for greater protection of health, safety, and welfare.

Our firm, Landplan Engineering/PKG Design Group has grown from strictly an architectural firm, started in 1957, to an architecture, planning and landscape architecture firm in 1969 and then expanding in 1978 to include civil engineering and land surveying. Today, we are a professional association with ownership held by three (3) State Licensed Architects, two (2) State Licensed Landscape Architects, and two (2) State Licensed Civil Engineers of which one (1) is also a State Licensed Land Surveyor. In our opinion, this is truly a multi-disciplined professional association that has and will continue to provide comprehensive technical services throughout this State under this Senate Bill 104. Severing any of these functioning parts from the body would leave a void in acknowledged expertise and approved curriculums.

I would like to, however, address several concerns with the present Senate Bill 104:

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Attachment 5

1. Current landscape architectural licensing requires successfully passing a standard exam. That exam can be taken upon completion of an approved university curriculum. Licensure cannot occur, however, until the individual has completed a specified period of professional experience. I hereby respectfully request that individuals are still able to take exams upon completion of a qualified university curriculum for the primary reasons:

- a. One is never as well-versed in the broad scope of landscape architecture as when right out of college. Once individuals enter their career, job nature typically causes ones focus to narrow to a specific segment (i.e. park planning, urban planning, site detailing, land-use planning, research, teaching, administration, planting design, site grading/layout, business operations, construction maintenance, or sales).

My perspective is enhanced by the method the legal profession provides for BAR exams to be taken upon graduation from a qualified law school. Like landscape architecture, law is a many-faceted career and one is probably seldom as well-rounded in its curriculum as when it is freshest in a young mind.

Please amend 74-7020(c) to allow taking an examination upon graduation from an approved university curriculum.

The Kansas State University curriculum in landscape architecture has been one of this nation's foremost over the last 10 to 12 years. The quality of education received there has afforded the luxury of this request. Myself and six other licensed landscape architects in my office can attest to this fact.

Thank you for your timely and thoughtful consideration given to Senate Bill 104, its amendments, and adoption.

My name is Professor Dennis Law. I am head of the department of Landscape Architecture at Kansas State University in Manhattan. I come today to represent the college of Architecture and Design and the professions of architecture and landscape architecture, especially from the viewpoint of those professionals involved in higher education.

We wholeheartedly agree with the licensure of those professions represented by the board of technical professions. Further, we agree with the efforts to make similar the requirements for licensure of the various professions governed by the Board of Technical Professions. The rewriting of the Act has been a significant expenditure of time and effort and the amount of changes in the law are numerous. Our various state universities play a very vital role in the various professions and need to be considered in any rewriting of this important legislative action. There are some legitimate concerns that should be addressed as the bill moves through the legislative process.

**SUGGESTED AMENDMENT ONE.** The practice of architecture as defined in SB-104 is, among many things, described as "teaching architecture in a university offering an approved architecture curriculum of four years or more by a person who is a licensed architect." (lines 69 - 71). Teaching is also considered a practice to be licensed in Landscape Architecture (lines 80 - 83), Engineering (lines 106 - 108) and Land Surveying (lines 157 - 159). In recent consultation with Ms. Betty Rose, Executive Director of the State Board of Technical Professions, the intent of this language was not to require licensure of every person teaching courses in professional curriculums, but rather to insure that teaching was an acceptable form of practice, with experience that could count time toward those wanting to test for licensure. As the law currently reads, there seems to be some ambiguity here and it is our opinion that the language

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in the aforementioned references be stricken. In consideration of this, we suggest an amendment to line 321 to read "proof of architectural experience or teaching in an architecture program of a character satisfactory to the board;..". Likewise, there should be similar amendments to lines 347, 351, 441 and 463 as related to the other three professions.

It is admirable that those that teach be able to practice. We encourage this to its fullest extent. In fact, the percentage of licensed faculty members at Kansas State University, ranks among the highest in the country. However, it is impossible for all individuals to be licensed that are on our faculty. In many cases, we use graduate assistants to teach in our curriculum. Obviously, these people are not eligible for licensure. In addition, the well-balanced programs in design often hire "specialists" to facilitate the curriculum delivery. On staff in the college of Architecture and Design, we have historians, artists, community planners and engineers who are not licensed architects or landscape architects. I am quite sure this will pose no problem if we end that ambiguity in the language of the bill.

**SUGGESTED AMENDMENT TWO.** Throughout the proposed bill, the text uses the phrase "approved curriculum", specifically, line 318 in describing minimum qualifications for applicants seeking licensure as architects including, "Graduation in an architectural curriculum approved by the board." One might conclude from this that the board might approve the curriculum offered by the university. Again, as I understand it, this is not the intent. The word "curriculum" means the courses, sequencing of course offerings, and course content. In reality, "an applicant should be a graduate of a college or university program that the board deems as adequate in its preparation of students for the practice of architecture.". I suggest similar changes in lines 344 and 349 for landscape architects; 375 for engineers, and 454 for

land surveyors.

**SUGGESTED AMENDMENT THREE.** While the intent of rewriting the act was to get some similarity between the requirements for licensure in the four professions, we have found some lack of consistency in the time required between graduation and when an applicant can take the licensing examination. Line 321 provides no time experience for architects, but line 328 suggests that the applicant may take the examination during the last year of the period of work experience. The requirement for landscape architects is four years for persons graduating from a four year curriculum (line 346) and three years experience for persons graduating from a five year curriculum (line 350). Engineers must have four years experience (line 441) and land surveyors, four years experience.

I am quite sure the number of years of apprenticeship for architects has been inadvertently left out of the text. In representing the landscape architecture faculty at Kansas State University, we wholeheartedly concur that the three/four year apprenticeship is important. However, because of the nature of our profession, it is important that the applicants be qualified to take the examination prior to the last year of that apprenticeship. Landscape architecture is an extremely diverse profession. The projects that we undertake include such things as community design, natural resource planning, urban design, land reclamation, golf course architecture, etc. Within three or four years of graduation, most practicing landscape architects have focused on an area of specialty. One of our main educational objectives in the department of Landscape Architecture at Kansas State is to familiarize the students to the wide-range of potential projects while at the University. The Uniform National Examination commonly utilized by the licensing boards throughout the nation is geared to that broad exposure to this profession. We really perform a disservice to our graduates if we wait too long to test them on such a wide-



range of projects that are seldom undertaken by a typical office experience. It is our suggestion that we retain the three or four years experience but allow the graduates of the approved programs to take the examination any time after graduation. Experience has shown that the system has worked flawlessly in the past in the state of Kansas. Without this change, my fear is that the only licensed practitioners that we will have in Kansas in the future are those who gain licensure by reciprocity. Our graduates will opt to take the examination elsewhere and ultimately choose not to practice in our own state. Therefore, I suggest that line 369 and following read, "Such examination may be taken by an applicant at any time following graduation from a college or university program in landscape architecture that is approved by the board."

Your worthy consideration of these suggestions would be appreciated by me as well as those that I represent. Thank you.

SENATE BILL No. 104

By Committee on Federal and State Affairs

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AN ACT concerning the technical professions; relating to the board of technical professions; concerning licensing of persons to practice the technical professions; relating to the validity of certain building permits requiring technical submissions; authorizing the board to impose civil fines and costs for certain violations; amending K.S.A. 74-7003, 74-7005, 74-7006, 74-7008, 74-7009, 74-7010, 74-7016, 74-7017, 74-7018, 74-7019, 74-7020, 74-7021, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7032, 74-7033, 74-7035 and 74-7036 and K.S.A. 1988 Supp. 74-7022 and 74-7034 and repealing the existing sections; also repealing K.S.A. 74-7011, 74-7012 and 74-7014.

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

Section 1. K.S.A. 74-7003 is hereby amended to read as follows: 74-7003. As used in this act:

(a) "Technical professions" include the professions of engineering, land surveying, architecture and landscape architecture as the practice of such professions are defined in this act.

(b) "Board" means the state board of technical professions.

(c) "License" means a license to practice the technical professions granted under this act.

(d) "Architect" means a person, who, by reason of his or her knowledge of mathematics, the physical sciences, and the principles of architecture acquired by professional education or practical experience, is qualified as provided in this act to engage in the practice of architecture and who is licensed by the board, whose practice shall consist of:

(1) Rendering services or performing creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, providing preliminary studies and designs, overall interior and exterior

46 building design, coordination of services furnished by licensed  
 47 professional engineers and other consultants, overall project coordi-  
 48 nation, design, the preparation of drawing, specifications and re-  
 49 lated documents, all in connection with the construction or erection  
 50 of any private or public building, building project or integral part  
 51 or parts of buildings or of any additions or alterations thereto, or  
 52 other services and instruments of services related to architecture;

53 (2) representation in connection with contracts entered into be-  
 54 tween clients and others;

55 (3) observing the construction, alteration and erection of build-  
 56 ings; and

57 (4) providing such engineering and other services controlled by  
 58 the board as may be required that are incidental to the building  
 59 design process.

60 (e) "Practice of architecture" means the rendering of service by  
 61 consultation, planning, or designing of buildings or the re-  
 62 sponsible administration of construction projects or offering to  
 63 render certain services, as provided for in the definition of architect  
 64 under paragraph (d), in connection with the design and construction  
 65 or alterations and additions of a building or buildings; the utilization  
 66 of space surrounding such buildings; the design and construction of  
 67 items relating to building code requirements and other building re-  
 68 lated features affecting the public's health, safety and welfare; and  
 69 ~~teaching architecture in a university offering an approved archite-~~  
 70 ~~ture curriculum of four years or more by a person who is a licensed~~  
 71 ~~architect.~~

72 (f) "Landscape architect" means a person who is professionally  
 73 qualified as provided in this act to engage in the practice of landscape  
 74 architecture, who teaches landscape architecture in a recognized  
 75 college or university or practices landscape architecture and who is  
 76 licensed by the board.

77 (g) "Practice of landscape architecture" means the performing of  
 78 professional services such as consultation, planning, designing or  
 79 responsible supervision in connection with the development of land  
 80 areas for preservation and enhancement; ~~teaching landscape archi-~~  
 81 ~~teature in a university offering an approved landscape architectural~~  
 82 ~~curriculum of four years or more by a person who is a licensed~~

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landscape architect; and the designing of land forms and nonha-  
 structures for aesthetic and functional purposes such as pools,  
 and structures for outdoor living spaces for public and private use.  
 It encompasses the determination of proper land use as it pertains  
 to: Natural features; ground cover, use, nomenclature, and arrange-  
 ment of plant material adapted to soils and climate; naturalistic and  
 aesthetic values; settings and approaches to structures and other  
 improvements; soil conservation erosion control; drainage and grad-  
 ing; and the development of outdoor space in accordance with ideals  
 of human use and enjoyment.

(h) "Professional engineer" means a person who, is qualified to  
 practice engineering by reason of his or her special knowledge and  
 use of the mathematical, physical and engineering sciences and  
 principles and methods of engineering analysis and design, acquired  
 by engineering education and engineering experience, who is qual-  
 ified as provided in this act to engage in the practice of engineering  
 and who is licensed by the board.

(i) "Practice of engineering" means any service or creative work,  
 the adequate performance of which requires engineering education,  
 training, and experience in the application of special knowledge of  
 the mathematical, physical, and engineering sciences to such services  
 or creative work as consultation, investigation, evaluation, planning  
 and design of engineering works and systems, ~~planning the use of~~  
~~land and water, teaching engineering in a university offering an~~  
~~approved engineering curriculum of four (4) years or more by a~~  
~~person who is a licensed professional engineer, engineering surve~~  
~~and studies, representation in connection with contracts entered in~~  
~~between clients and others, and the inspection observation of con-~~  
~~struction for the purpose of assuring compliance with drawings and~~  
~~specifications; and providing such architectural and other services~~  
~~controlled by the board as may be required that are incidental to~~  
~~the practice of engineering; any of which embraces such service or~~  
~~work, either public or private, in connection with any utilities, struc-~~  
~~tures, buildings, machines, equipment, processes, work systems, or~~  
~~projects and including such architectural work as is incidental~~  
~~to the practice of engineering industrial or consumer product~~  
~~equipment of a mechanical, electrical, hydraulic, pneumatic or~~

120 mal nature, insofar as they involve safeguarding life, health or prop-  
 121 erty, and the coordination of services furnished by architects and  
 122 other professional services as may be necessary to the planning,  
 123 progress and completion of any services related to engineering. As  
 124 used in this paragraph (i), "engineering surveys" include all survey  
 125 activities required to support the sound conception, planning, design,  
 126 construction, maintenance, and operation of engineered projects, but  
 127 exclude the surveying of real property for the establishment of land  
 128 boundaries, rights-of-way, easements, and the dependent or inde-  
 129 pendent surveys or resurveys of the public land survey system.

130 (j) "Land surveyor" means a person who is professionally  
 131 qualified as provided in this act to engage in the practice of  
 132 land surveying and who is licensed by the board any person  
 133 who is engaged in the practice of land surveying as provided in this  
 134 act and who is licensed by the board.

135 (k) "Practice of land surveying" means the application of math-  
 136 ematics and the principles of law and methods of land meas-  
 137 urement for the location or relocation of land boundaries and  
 138 land monuments; the measurement and calculation of land  
 139 areas; the preparation of the original descriptions of real prop-  
 140 erty for conveyance or recording; and the preparation of maps  
 141 or certificates of survey thereof. includes:

142 (1) The performance of any professional service, the adequate  
 143 performance of which involves the application of special knowledge  
 144 and experience in the principles of mathematics, the related physical  
 145 and applied sciences, the relevant requirements of law and the meth-  
 146 ods of surveying measurements in measuring and locating of lines,  
 147 angles, elevation of natural and man-made features in the air, on  
 148 the surface of the earth, within underground workings and on the  
 149 bed of bodies of water for the purpose of determining areas, volumes  
 150 and monumentation of property boundaries; and

151 (2) the platting and layout of lands and subdivisions thereof,  
 152 including the topography, determination of, but not design of, align-  
 153 ment and grades of streets and utilities; and

154 (3) the preparation of the original descriptions of real property  
 155 for the conveyance of or recording thereof and the preparation of  
 156 maps, plats and field note records that represent these surveys; and

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157 ~~(4) teaching land surveying in a university offering an a~~  
 158 ~~land surveying curriculum of four or more years by a pers~~ who  
 159 ~~is a licensed land surveyor.~~

160 (l) "Person" means a natural person, firm, corporation or  
 161 partnership.

162 Sec. 2. K.S.A. 74-7005 is hereby amended to read as follows:  
 163 74-7005. Three ~~(3)~~ members of the board shall have been engaged  
 164 in the practice of engineering, as defined in this act, for at least  
 165 five eight years. One ~~(1)~~ member shall have been engaged in the  
 166 practice of land surveying, as defined in this act, for at least five  
 167 eight years; three ~~(3)~~ members shall be architects of recognized  
 168 standing and shall have been engaged in the practice of the profes-  
 169 sion of architecture, as defined in this act, for at least ten eight years,  
 170 which practice shall include responsible charge of architectural work  
 171 as principal; one ~~(1)~~ member shall be a licensed landscape architect,  
 172 as defined in this act, and shall have been engaged in the practice  
 173 of landscape architecture for at least seven eight years, which prac-  
 174 tice shall include responsible charge of landscape architectural work  
 175 as principal; and one ~~(1)~~ member shall be from the general public  
 176 of this state. Each member of the board shall be a citizen of the  
 177 United States and a resident of this state. *The amendments to this*  
 178 *section shall not be applicable to any member of the board who was*  
 179 *appointed to the board and qualified for such appointment under*  
 180 *this section prior to the effective date of this act.*

181 Sec. 3. K.S.A. 74-7006 is hereby amended to read as follows:  
 182 74-7006. The members of the first board shall be appoi-  
 183 within sixty (60) days after the effective date of this act; to  
 184 serve for the following terms: One member of the board shall  
 185 be appointed to serve for one (1) year, two for two (2) years,  
 186 three for three (3) years, and three for four (4) years. The term  
 187 of each board member, first appointed hereunder, shall com-  
 188 mence on the day this act becomes effective. Whenever a vacancy  
 189 shall occur in the membership of the board by reason of the expi-  
 190 ration of a term of office, the governor shall appoint a successor of  
 191 like qualifications. All appointments made subsequent to those  
 192 herein first specified shall be for a term of four (4) years,  
 193 member shall be appointed for more than three (3) successive

194 year terms, except that any term served by a member as see-  
 195 retary shall not be considered, in applying successive term  
 196 limitations. The terms of each member first appointed after the  
 197 effective date of this act, for the purpose of computing the length  
 198 of the term of such member, shall commence on the first calendar  
 199 day subsequent to the day of expiration of the preceding term re-  
 200 gardless of when the appointment is made and shall end on June  
 201 30 of the fourth year of the member's term for those members whose  
 202 term commences on July 1, or on June 30 following the third full  
 203 year of the member's term for those members whose term commences  
 204 on January 1. Thereafter, for the purpose of computing the length  
 205 of term of a member of the board, the terms of members appointed  
 206 to the board shall commence on the July 1 immediately following  
 207 the day of expiration of the preceding term, regardless of when the  
 208 appointment is made, and shall expire on June 30 of the fourth year  
 209 of the member's term. Each shall serve until a successor is appointed  
 210 and qualified. Whenever a vacancy shall occur in the membership  
 211 of the board for any reason other than the expiration of a member  
 212 term of office, the governor shall appoint a successor of like quali-  
 213 fications to fill the unexpired term. The governor may remove any  
 214 member of the board for misconduct, incompetency, neglect of duty,  
 215 or for any other sufficient cause.

216 Sec. 4. K.S.A. 74-7008 is hereby amended to read as follows:  
 217 74-7008. The board may appoint an executive secretary director  
 218 who shall be in the unclassified service of the Kansas civil service  
 219 act and shall receive an annual salary fixed by the board. Members  
 220 of the state board of technical professions attending meetings of such  
 221 board, or attending a subcommittee meeting thereof authorized by  
 222 such board, shall be paid compensation, subsistence allowances,  
 223 mileage and other expenses as provided in K.S.A. 75-3223, and  
 224 amendments thereto. The board may employ clerical personnel and  
 225 other assistants all of whom shall be in the classified service under  
 226 the Kansas civil service act and may make and enter into contracts  
 227 of employment with such professional personnel as may be necessary,  
 228 in the board's judgment, for the performance of its duties and func-  
 229 tions and the execution of its powers.

230 Sec. 5. K.S.A. 74-7009 is hereby amended to read as follows:

231 74-7009. The following *nonrefundable* fees shall be collec the  
 232 board: For a license, issued upon the basis of an examination given  
 233 by the board, an application fee in the sum of five dollars (\$5) \$25  
 234 plus an amount, to be determined by the board, equal to the cost  
 235 of the respective examination in each branch of the technical profes-  
 236 sions. For a certificate of authorization for a corporation, the sum  
 237 of not more than one hundred fifty dollars (\$150) \$150. For the  
 238 biennial renewal of a license, the sum of not more than fifty dollars  
 239 (\$50) \$50. For the biennial renewal of a certificate of authorization  
 240 for a corporation, the sum of not more than seventy-five dollars  
 241 (\$75) \$75. On or before November 15, each year, the board shall  
 242 determine the amount necessary to administer the provisions of this  
 243 act for the ensuing calendar year including the amount to be credited  
 244 to the state general fund, and shall fix the fees for such year at the  
 245 sum deemed necessary for such purposes. The board shall remit all  
 246 moneys received by or for it from fees, charges or penalties to the  
 247 state treasurer at least monthly. Upon receipt of each such remittance  
 248 the state treasurer shall deposit the entire amount thereof in the  
 249 state treasury. Twenty percent (20%) of each such deposit shall be  
 250 credited to the state general fund and the balance shall be credited  
 251 to the technical professions fee fund, which fund is hereby created.  
 252 All expenditures from such fund shall be made in accordance with  
 253 appropriation acts upon warrants of the director of accounts and  
 254 reports issued pursuant to vouchers approved by the chairperson of  
 255 the board or by a person or persons designated by the chairperson.  
 256 Sec. 6. K.S.A. 74-7010 is hereby amended to read as follows:  
 257 74-7010. A roster showing the names and places of business of all  
 258 persons licensed under this act or issued a certificate of authorization  
 259 under K.S.A. 74-7036 and amendments thereto shall be maintained  
 260 by the secretary of the board. The roster shall also specify the branch  
 261 of the technical professions in which each such person is licensed  
 262 or authorized to practice. Copies of the roster may be placed, at  
 263 the discretion of the board, on file with the secretary of state and  
 264 with the clerk of each county in this state, and shall be furnished  
 265 to such other persons as determined by the board. Copies shall be  
 266 furnished to members of the public upon request and the sum  
 267 of a sum. The board may charge and collect a fee for copies fur-

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268 nished to members of the public in an amount to be fixed by the  
 269 board and approved by the director of accounts and reports under  
 270 K.S.A. 1980 Supp. 4 204 45-219 and amendments thereto in order  
 271 to recover the actual costs incurred. All fees collected under this  
 272 section shall be remitted to the state treasurer who shall deposit the  
 273 entire amount thereof in the state treasury and credit such amount  
 274 to the technical professions fee fund.

275 Sec. 7. K.S.A. 74-7016 is hereby amended to read as follows:  
 276 74-7016. (a) The board shall keep a record of its proceedings, and  
 277 a register of all applications for license, which register shall show  
 278 (1) the name, age, and residence of each applicant; (2) the date of  
 279 the application; (3) the place of business of such applicant; (4) ed-  
 280 ucational and other qualifications; (5) whether or not an examination  
 281 was required; (6) the action of the board upon the application; (7)  
 282 the date of the action of the board; and (8) such other information  
 283 as may be deemed necessary by the board.

284 (b) The records of the board shall be prima facie evidence of the  
 285 proceedings of the board set forth therein, and a transcript thereof,  
 286 duly certified by the secretary of the board under seal, shall be  
 287 admissible in evidence with the same force and effect as if the original  
 288 were produced.

289 Sec. 8. K.S.A. 74-7017 is hereby amended to read as follows:  
 290 74-7017. No applicant seeking original license to practice any tech-  
 291 nical profession shall be entitled to such license without first meeting  
 292 the requirement to take and pass an examination given utilized by  
 293 the board.

294 Sec. 9. K.S.A. 74-7018 is hereby amended to read as follows:  
 295 74-7018. Applications for license shall be in writing and on forms  
 296 prescribed and furnished by the board, shall contain statements made  
 297 under oath showing the applicant's education and detailed summary  
 298 of the applicant's technical work, previous examinations, if any, and  
 299 the results thereof, and such other information and references as  
 300 may be required by the board. All such applications shall be filed  
 301 with the secretary executive director, together with the application  
 302 fee prescribed under K.S.A. 74-7009 and amendments thereto, not  
 303 later than sixty (60) 90 days prior to the date of the examination.  
 304 Applications for examination, and the fee therefor, received after

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305 said such date shall be retained by the board and shall be reviewed  
 306 for eligibility to take the next succeeding examination by the  
 307 board, and the applicant shall be notified by the board of the time,  
 308 date and place of said the examination. All applicants must take the  
 309 examination within four scheduled examinations or must reapply and  
 310 repay the current prescribed fee. Any applicant failing in his or  
 311 her first the examination may apply for reexamination after the  
 312 expiration of within six (6) months following date of failure and  
 313 will be reexamined upon payment of the application fee prescribed  
 314 under K.S.A. 74-7009 and amendments thereto.

315 Sec. 10. K.S.A. 74-7019 is hereby amended to read as follows:  
 316 74-7019. Minimum qualifications of applicants seeking license as  
 317 architects are the following: <sup>AN Applicant should graduate from a college or university</sup>  
 318 <sup>program that the board deems as adequate in his</sup>  
 319 ~~(a) (1) Graduation in an architectural curriculum accredited by~~  
 320 ~~the national accrediting board, together with approved by the~~  
 321 ~~board;~~ <sup>or teaching in an architecture program</sup>

322 (b) three (3) years of proof of architectural experience of a  
 323 character satisfactory to the board; and gained under the super-  
 324 vision of a practicing licensed architect, or (2) a specific record  
 325 of at least eight (8) years experience in a practicing architect's  
 326 office, of which proof of experience shall be established by the  
 327 applicant to the satisfaction of the board, and (3)

328 (c) the satisfactory passage of an examination given utilized by  
 329 the board. Such examination may be taken during the last year of  
 330 the period of work experience by any applicant who is a graduate  
 331 in such curriculum.

332 (b) The satisfactory completion of each year of an accredited  
 333 architectural course without graduation, shall be considered as  
 334 equivalent to one (1) year's experience as specified in (a) (2)  
 335 of this section. Such credit to be limited, however, to a total  
 336 credit of four (4) years.

337 (e) Graduation in a curriculum other than architecture from  
 338 a college or university of recognized standing may be consid-  
 339 ered as equivalent to two (2) years' experience as specified in  
 340 (a) (2) of this section. No applicant shall receive credit thereby  
 341 for more than two (2) years of experience.

342 Sec. 11. K.S.A. 74-7020 is hereby amended to read as follows:

342 74-7020. Minimum qualifications of applicants seeking licensure as  
343 landscape architects are the following:

344 (a) <sup>see line 318</sup> Graduation from a college or university having a four (4) year  
345 ~~four-year curriculum in landscape architecture approved by the~~  
346 ~~board, and a minimum of two (2) four years of training experience~~  
347 ~~of in landscape architectural work of a grade and character satis-~~  
348 ~~factory to the board; or~~

349 (b) <sup>see line 318</sup> graduation from a college or university having a five (5) year  
350 ~~five-year curriculum, approved by the board, and one (1) year three~~  
351 ~~years of training experience of in landscape architectural work of a~~  
352 ~~grade and character satisfactory to the board; or and~~

353 (c) completion of seven (7) years of work in the practice of  
354 landscape architecture of a grade and character satisfactory to  
355 the board. Each year of education completed in a school of  
356 landscape architecture approved by the board shall be consid-  
357 ered to be equivalent to one (1) year of such work. Graduation  
358 in a curriculum other than landscape architecture, from a col-  
359 lege or university, shall be equivalent to two (2) years expe-  
360 rience of the seven (7) specified above in this section except  
361 that no applicant shall receive credit for more than two (2)  
362 years experience; or

363 (d) graduation from a school of landscape architecture, if  
364 approved by the board, together with the submission of evi-  
365 dence of five (5) years of actual, practical experience in land-  
366 scape architectural work of a grade and character satisfactory  
367 to the board; and

368 (e) (c) the satisfactory passage of an examination given utilized  
369 by the board. Such examination may be taken <sup>AT ANY TIME following graduation</sup> prior to or during  
370 ~~the last year of the period of work experience by any applicant who~~  
371 ~~is a graduate of such college or university curriculum.~~

372 Sec. 12. K.S.A. 74-7021 is hereby amended to read as follows:  
373 74-7021. (a) Minimum qualifications of applicants seeking licensure  
374 as professional engineers are the following:

375 (1) (a) <sup>see line 318</sup> Graduation in an approved engineering curriculum of  
376 four (4) years or more from a school or college approved by  
377 the board as of satisfactory standing and a record of an addi-  
378 tional four (4) years or more of experience in engineering work

or teaching in  
an architecture  
program

Landscap  
Architecture  
Approved by  
the BOARD

379 of a character which is satisfactory to the board; and  
380 applicant shall have been admitted to and shall have successfully  
381 passed a written examination in the fundamentals of engi-  
382 neering; or approved by the board;

383 (2) a specific record of eight (8) years or more of experience  
384 in engineering work of a character satisfactory to the board and  
385 indicating that the applicant is competent to practice engi-  
386 neering; and has successfully passed a written examination in  
387 the fundamentals of engineering. Graduation in a curriculum  
388 other than engineering from a college or university of recog-  
389 nized standing may be considered as equivalent to two (2) years  
390 experience and graduation in a board approved technic  
391 stitute two-year curriculum covering engineering sciences shall  
392 be accepted for not more than two (2) years of the eight (8)  
393 years' experience set forth above; or

394 (3) graduation in an approved engineering curriculum of  
395 four (4) years or more from a school approved by the board as  
396 of satisfactory standing; and a specific record of twelve (12)  
397 years or more of practice in engineering work of a character  
398 satisfactory to the board and indicating that the applicant is  
399 competent to practice engineering; provided said applicant  
400 shall have successfully passed an oral or written examination.  
401 Any applicant qualifying for examination under this paragraph  
402 (3); and demonstrating a specific record of twenty-five (25) years  
403 or more of practice in engineering work, shall be given an oral  
404 examination by the board in lieu of a written examination  
405 request therefor by such applicant; and

406 (4) the satisfactory passage of a professional examination  
407 given by the board. Such examination may be taken during the  
408 last year of the period of work experience by an applicant who  
409 is a graduate in an approved engineering curriculum of four  
410 (4) years or more from a college or school approved by the  
411 board. (b) the satisfactory passage of a written examination in the  
412 fundamentals of engineering;

413 (b) In considering the qualifications of applicants; teaching  
414 engineering in a college or university offering an approved  
415 engineering curriculum of four (4) years or more may be

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416 sidered as engineering experience.

417 (c) The satisfactory completion of each year of an approved  
418 curriculum in engineering in a school or college approved by  
419 the board as of satisfactory standing, without graduation, shall  
420 be considered as equivalent to not more than one (1) year of  
421 experience specified in paragraph 2 of subsection (a).

422 (d) Any person, licensed as a professional engineer in the  
423 state of Kansas at the time this act takes effect, shall thereafter  
424 continue to possess the same rights and privileges with respect  
425 to the practice of engineering, without being required to be  
426 licensed anew under the provisions of this act, subject, how-  
427 ever, to the power of the board as provided in this act to  
428 suspend or revoke the license of any such person for any of  
429 the causes set forth in this act, and subject to power of the  
430 board to require any such person to renew said license as  
431 provided in this act.

432 (e) Prior to completion of the requisite years of experience  
433 in engineering work, an applicant may be permitted to take an  
434 eight-hour written examination in the fundamentals of engi-  
435 neering and satisfactory passage of this portion of the profes-  
436 sional examination by the applicant shall constitute a credit for  
437 a period of ten years. The board shall issue to each applicant  
438 upon successfully passing the examination in the fundamentals  
439 of engineering a certificate stating that he or she has passed  
440 the examination.

441 (c) proof of four years of engineering experience of a character  
442 satisfactory to the board; and

443 (d) the satisfactory passage of an examination in professional  
444 practice which may be taken during the last year of the period of  
445 work experience by an applicant who is a graduate of such approved  
446 curriculum.

447 Sec. 13. K.S.A. 1988 Supp. 74-7022 is hereby amended to read  
448 as follows: 74-7022. (a) Minimum qualifications of applicants seeking  
449 licensure as land surveyors are the following:

450 (1) Graduation in an accredited engineering curriculum of  
451 four years or more, approved by the board and two or more  
452 years survey experience of a character satisfactory to the board;

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453

of <sup>see line 318</sup>

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(2) (a) ~~Graduation in an accredited a surveying curri~~ ~~curriculum~~ ~~approved by the board;~~ of not less than two years with two years

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survey experience of a character satisfactory to the board; or

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(3) completion of six years or more of active experience in

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land surveying, of a character satisfactory to the board. Each

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year of satisfactory work in an accredited engineering or sur-

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veying curriculum may be considered as equivalent to one year

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of experience in land surveying, but not exceeding a total of

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four years; and (b), proof of at least four years of land surveying

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experience <sup>or teaching in a land surveying program</sup> satisfactory to the board; and

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(4) (c) the satisfactory passage of an examination given <sup>utilized</sup>

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by the board. Such examination may be taken prior to or

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the last year of the period of work experience by any applicant who

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is a graduate in such approved curriculum.

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(b) (1) The board may exempt from examination and may

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issue, upon application therefor and receipt of payment of the

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application fee prescribed under K.S.A. 74-7009, and amend-

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ments thereto, a license to practice land surveying to any

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professional engineer licensed in the state of Kansas who was

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so licensed prior to January 1, 1986, and who submits, under

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oath, evidence satisfactory to the board that the applicant is

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and was, for at least one year prior to July 1, 1986, a resident

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of the state of Kansas and is and was, for at least two years

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prior to July 1, 1986, in responsible charge of land surveying

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work.

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(2) The provisions of this subsection (b) shall exp. on

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September 30, 1988.

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Sec. 14. K.S.A. 74-7023 is hereby amended to read as follows:

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74-7023. (a) All examinations required by this act shall be held at

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such time and place as the board shall determine ~~determines~~.

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The scope of the examinations and the methods of procedure shall be

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prescribed by the board. The board, after receiving satisfactory evi-

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dence of the qualifications of applicants and after satisfactory ex-

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amination of said the applicants, shall issue a license authorizing the

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applicant to practice the technical profession for which he ~~she~~

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the applicant is qualified and to use the title appropriat ~~uch~~



6 technical profession. Each license shall show the full name of the  
 7 licensee, shall have a serial number and shall be signed by the  
 3 chairperson and the secretary of the board under seal of the board.  
 1 The issuance of a license by the board shall be prima facie evidence  
 1 that the person named ~~therein~~ *on the license* is legally licensed and  
 2 is entitled to all the rights and privileges of a licensed practitioner  
 3 of ~~his or her~~ *the technical profession for which the licensee is licensed*  
 4 while ~~said~~ *the license* remains unrevoked and unexpired. *The li-*  
 5 *cencee shall notify the board in writing of any change of address*  
 6 *of the licensee within 30 days subsequent to the date of such change*  
 7 *of address.*

(b) Each licensee shall purchase a seal of a distinctive design  
 authorized by the board, bearing the licensee's name *and number*  
 and a uniform inscription formulated by the board. Documents,  
 reports, records and papers signed by the licensee in ~~his or her~~  
*the licensee's* professional capacity shall be stamped with ~~said the~~  
 seal during the duration of the license, but it shall be unlawful for  
 anyone to stamp any document with ~~said the~~ seal after the license  
 has expired or has been revoked, unless ~~said the~~ license has been  
 renewed or reissued. *No person shall tamper with or revise the seal*  
*without express written approval by the board.*

(b) (c) Any Kansas practitioner of a technical profession licensed  
 hereunder may stamp any documents submitted to ~~him or her~~ *such*  
*practitioner* by any practitioner of ~~such a~~ technical profession li-  
 censed in another state upon assuming full responsibility for fur-  
 nishing complete and adequate ~~supervision~~ *observation* of the work  
 covered by the documents to which ~~he or she~~ *the Kansas practi-*  
*tioner* has affixed ~~said stamp or~~ the seal.

Sec. 15. K.S.A. 74-7025 is hereby amended to read as follows:  
 74-7025. (a) ~~It shall be the duty of~~ The secretary of the board ~~to~~  
 shall notify every person licensed under this act or issued a certificate  
 of authorization under K.S.A. 74-7036, *and amendments thereto* of  
 the date of the expiration of the license or certificate of authorization,  
 and the amount of the fee that is required for its renewal for two  
 years. Such notice shall be mailed *to the last address provided the*  
*board by the licensee* at least one month in advance of the date of  
 the expiration of ~~said the~~ license or certificate of authorization. Re-

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53 renewal may be effected without penalty any time during a per  
 54 ~~thirty (30)~~ 30 days following the date of the expiration of ~~sa~~  
 55 license or certificate of authorization by the payment of a renewal  
 56 fee established by the board pursuant to the provisions of K.S.A.  
 57 74-7009 *and amendments thereto.*

(b) Any person who fails to renew a license or certificate of  
 authorization during ~~said the~~ *the* thirty-day period may have ~~said the~~  
 license or certificate of authorization reinstated any time during a  
 period of ~~one hundred twenty (120)~~ 120 days following ~~said the~~  
 thirty-day period upon payment of a fee for reinstatement which  
 shall be the amount of the regularly established renewal fee increased  
 by ~~fifty percent (50%)~~ 50%. The failure on the part of any licensee  
 or holder of a certificate of authorization to effect renewal or rei-  
 statement of a license or certificate of authorization as required above  
 shall result in the revocation of ~~said the~~ license or certificate of  
 authorization by the board.

(b) (c) A new license or certificate of authorization, to replace  
 any lost, destroyed or mutilated license, may be issued, subject to  
 rules and regulations of the board, and a charge of ~~ten dollars (\$10)~~  
 \$20 shall be made for such issuance.

Sec. 16. K.S.A. 74-7026 is hereby amended to read as follows:  
 74-7026. (a) The board shall have the power to reprimand or oth-  
 erwise discipline, suspend or revoke the license of any person who  
 is found guilty of:

- (1) The practice of any fraud or deceit in obtaining a license or  
 certificate of authorization issued under K.S.A. 74-7036; and amend-  
 ments thereto;
- (2) any gross negligence, incompetency ~~or~~, misconduct *or wanton*  
 disregard for the rights of others in the practice of any technical  
 profession;
- (3) a conviction of a felony as set forth in the criminal statutes  
 of the state of Kansas, of any other state or of the United States;
- (4) violation of any rules of professional conduct adopted and  
 promulgated by the board or violation of rules ~~or~~ *and* regulations  
 adopted by the board for the purpose of carrying out the provisions  
 of this act;
- (5) affixing or permitting to be affixed such licensee's seal or ne

to any documents, reports, records or papers which were not prepared or reviewed and evaluated by such licensee, or prepared under the responsible direct supervision of and control of such licensee, except as provided in K.S.A. 74-7023 and amendments thereto.

(b) The board shall have the power to reprimand or otherwise discipline, suspend or revoke the certificate of authorization of any corporation whose officers or directors have committed any act or have been guilty of any conduct which would authorize the board to reprimand or otherwise discipline, suspend or revoke the license of a person under this section.

(c) The board, for reasons it may deem sufficient, may reissue a license or certificate of authorization to any person whose license or certificate of authorization has been revoked and may remove the suspension of the license or certificate of authorization of any person whose license or certificate of authorization has been suspended providing five or more members of the board vote in favor of such reissuance or removal of suspension. A new license or certificate of authorization, to replace any revoked or suspended license or certificate of authorization, may be issued, subject to rules and regulations of the board, and a charge of \$50 \$100 shall be made for the issuance of such license or \$75 \$150 for the issuance of a certificate of authorization.

(d) Any action of the board pursuant to this section shall be subject to the provisions of the Kansas administrative procedure act.

Sec. 17. K.S.A. 74-7029 is hereby amended to read as follows:

74-7029. (a) It shall be a class A misdemeanor for any person to: (1) Practice or offer to practice or hold such person oneself out as entitled to practice any technical profession unless duly licensed as provided in this act or holds a certificate of authorization issued under K.S.A. 74-703 and amendments thereto; (2) present or attempt to use, as such person's own, the license, certificate of authorization or seal of another; (3) falsely impersonate any other practitioner of like or different name; (4) give false or forged evidence to the board or any member thereof in obtaining a license or certificate of authorization; (5) use or attempt to use a license or certificate of authorization that has expired or been suspended or

SENATE BILL No. 104

By Committee on Federal and State Affairs

AN ACT concerning the technical professions; relating to the board of technical professions; concerning licensing of persons to practice the technical professions; relating to the validity of certain building permits requiring technical submissions; authorizing the board to impose civil fines and costs for certain violations; amending K.S.A. 74-7003, 74-7005, 74-7006, 74-7008, 74-7009, 74-7010, 74-7016, 74-7017, 74-7018, 74-7019, 74-7020, 74-7021, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-7032, 74-7033, 74-7035 and 74-7036 and K.S.A. 1988 Supp. 74-7022 and 74-7034 and repealing the existing sections; also repealing K.S.A. 74-7011, 74-7012 and 74-7014.

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

Section 1. K.S.A. 74-7003 is hereby amended to read as follows: 74-7003. As used in this act:

(a) "Technical professions" include the professions of engineering, land surveying, architecture and landscape architecture as the practice of such professions are defined in this act.

(b) "Board" means the state board of technical professions.

(c) "License" means a license to practice the technical professions granted under this act.

(d) "Architect" means a person, who, by reason of his or her knowledge of mathematics, the physical sciences, and the principles of architecture acquired by professional education or practical experience, is qualified as provided in this act to engage in the practice of architecture and who is licensed by the board, whose practice shall consist of:

(1) Rendering services or performing creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning providing preliminary studies and designs, overall interior and or

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127 revoked; (6) falsely advertise as a licensed practitioner or as the  
128 holder of a certificate of authorization; (7) use in connection with  
129 such person's name, or otherwise assume, or advertise any title or  
130 description intended to convey the impression that such person is  
131 a licensed practitioner or holds a certificate of authorization; (8)  
132 otherwise violate any of the provisions of this act or any rule or  
133 regulation promulgated by the board in conformance with the re-  
134 visions of this act.

135 (b) For the purposes of item (1) of subsection (a), a person shall  
136 be construed to practice or offer to practice or hold oneself out as  
137 entitled to practice a technical profession if such person practices  
138 any branch of the technical professions; or by verbal claim, sign,  
139 advertisement, letterhead, card or in any other way represents one-  
140 self to be an architect, landscape architect, professional engineer or  
141 land surveyor; or through the use of some other title implies that  
142 such person is an architect, landscape architect, professional engi-  
143 neer or land surveyor or that such person is licensed to practice a  
144 technical profession; or who holds oneself out as able to perform,  
145 or who does perform, any service or work or any other service  
146 designated by the practitioner which is recognized as within the  
147 scope of the practice of a technical profession.

148 (c) The attorney general of the state or the district or county  
149 attorney of any county shall, at the request of the board, shall render  
150 such legal assistance as may be necessary in carrying out the pro-  
151 visions of this act. Upon the request of the board, the attorney  
152 general or district or county attorney of the proper county shall  
153 institute in the name of the state or board the proper proceedings  
154 against any person regarding whom a complaint has been made  
155 charging such person with the violation of any of the provisions of  
156 this act. The attorney general, and such district or county attorney,  
157 at the request of the attorney general or of the board, shall appear  
158 and prosecute any and all such actions.

159 Sec. 18. K.S.A. 74-7031 is hereby amended to read as follows:  
160 74-7031. The provisions of this act requiring licensure or the issuance  
161 of a certificate of authorization under K.S.A. 74-7036 and amend-  
162 ments thereto to engage in the practice of architecture shall not be  
163 construed to prevent or to affect:

164 (a) The practice of any person engaging in the publication of  
165 books or pamphlets illustrating architectural designs.

166 (b) Persons preparing plans, drawings or specifications for one  
167 and two family dwellings or for agricultural buildings.

168 (c) Persons furnishing, individually or with subcontractors, labor  
169 and materials, with or without plans, drawings, specifications, in-  
170 struments of service, or other data concerning the labor and materials  
171 to be used for any of the following *as long as the utilization of the*  
172 *uniform building code or life safety code, as currently adopted by*  
173 *the division of architectural services of the state of Kansas, is not*  
174 *required:*

175 (1) Store fronts or facades, interior alterations or additions, fix-  
176 tures, cabinet work, furniture, appliances or other equipment;

177 (2) work necessary to provide for installation of any item des-  
178 ignated in (1) above;

179 (3) alterations or additions to a building necessary to or attendant  
180 upon installation of any item designated in (1) above, if the alteration  
181 or addition does not change or affect the structural system of the  
182 building, *which structural system includes, but is not limited to,*  
183 *foundations, walls, floors, roofs, footings, bearing partitions, beams,*  
184 *columns or joists.*

185 (d) Work involving matters of rates, rating and loss prevention  
186 by employees of insurance rating organizations and insurance service  
187 organizations and insurance companies and agencies.

188 (e) The performance of services by a licensed landscape architect  
189 or corporation issued a certificate of authorization to provide services  
190 in landscape architecture under K.S.A. 74-7036, *and amendments*  
191 *thereto* in connection with landscape and site planning for the sites,  
192 approaches or environment for buildings, structures or facilities.

193 (f) ~~The practice of architecture by any officer or employee~~  
194 ~~of the federal government or of any interstate railroad system~~  
195 ~~while engaged in the performance of official duties.~~

196 (g) For the purposes of this section:

197 (1) "Building" means any structure consisting of foundation,  
198 floors, walls, columns, girders, beams and roof, or a combination of  
199 any number of these parts, with or without other parts and ap-  
200 purtenances thereto, including the structural, mechanical and elec-

201 trical systems utility services, and other facilities as may be required  
202 for said *the* structure.

203 (2) "Agricultural building" means any structure designed and con-  
204 structed to house hay, grain, poultry, livestock, or other horticultural  
205 products and for farm storage of farming implements. Such structure  
206 shall not be a place for human habitation or a place of employment  
207 where agricultural products are processed, treated, or packaged; nor  
208 shall it be a building or structure for use by the public.

209 Sec. 19. K.S.A. 74-7032 is hereby amended to read as follows:  
210 74-7032. The provisions of this act requiring licensure or the issuance  
211 of a certificate of authorization under K.S.A. 74-7036 *and amend-*  
212 *ments thereto* to engage in the practice of landscape architecture  
213 shall not be construed to prevent or to affect:

214 (a) The right of any individual to engage in the occupation of  
215 growing and marketing nursery stock or to use the title nurseryman,  
216 landscape nurseryman or gardener, or to prohibit any individual to  
217 plan or plant such individual's own property.

218 (b) The right of nurserymen to engage in preparing and executing  
219 planting plans.

220 (c) The practice of site development planning, in accordance with  
221 the practice of architecture, or the practice of engineering.

222 ~~The practice of landscape architecture by any officer or~~  
223 ~~employee of the federal or state governments while engaged~~  
224 ~~in the performance of official duties.~~

225 Sec. 20. K.S.A. 74-7033 is hereby amended to read as follows:  
226 74-7033. The provisions of this act requiring licensure or the issuance  
227 of a certificate of authorization under K.S.A. 74-7036 *and amend-*  
228 *ments thereto* to engage in the practice of engineering shall not be  
229 construed to prevent or to affect:

230 (a) The design or erection of any structure or work by the owner  
231 thereof, upon such owner's own premises for such owner's own use.

232 (b) Persons preparing plans, drawings or specifications for one or  
233 two family dwellings or for agricultural buildings.

234 (c) Persons engaged in planning, drafting, and designing of prod-  
235 ucts manufactured for resale to the public.

236 (d) The performance of services by a licensed landscape architect  
237 in connection with landscape and site planning for the sites

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238 proaches or environment for buildings, structures or facilities.  
 239 (e) The practice of engineering by any officer or employee  
 240 of the federal government while engaged in the performance  
 241 of official duties.  
 242 Sec. 21. K.S.A. 1988 Supp. 74-7034 is hereby amended to read  
 243 as follows: 74-7034. The provisions of this act requiring licensure or  
 244 the issuance of a certificate of authorization under K.S.A. 74-7036;  
 245 and amendments thereto; to engage in the practice of land surveying  
 246 shall not be construed to prevent or to affect:  
 247 (a) Surveying, other than land surveying where such surveying  
 248 is incidental to the design or construction of engineering or archi-  
 249 tectural works.  
 250 (b) The practice of land surveying by an individual of such in-  
 251 dividual's own real property or that of such individual's employer  
 252 for purposes other than the conveyance of an interest in such real  
 253 property.  
 254 (c) The surveying on farms for agricultural purposes other than  
 255 the conveyance of an interest in such farm property.  
 256 (d) The performance of services by a licensed landscape architect  
 257 or by a corporation issued a certificate of authorization to provide  
 258 services in landscape architecture under K.S.A. 74-7036; and amend-  
 259 ments thereto; in connection with landscape and site planning for  
 260 the sites, approaches or environment for buildings, structures or  
 261 facilities.  
 262 (e) The practice of land surveying by any officer or employee of  
 263 any federal, state, county or city governmental agency while engaged  
 264 in the performance of official duties.  
 265 Sec. 22. K.S.A. 74-7035 is hereby amended to read as follows:  
 266 74-7035. The provisions of this act shall not apply to:  
 267 (a) The practice of any technical profession by a person who is  
 268 not a resident of and having has no established place of business  
 269 in the state of Kansas, or who has recently become a resident of  
 270 this state, if such person shall have has filed with the board an  
 271 application for a license and shall have has paid the application fee  
 272 required by this act. Such person shall be legally qualified by license  
 273 or registration to practice said the profession in his or her such  
 274 person's own state or country in which the requirements and qua

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275 ifications for obtaining a license or certificate of registrati not  
 276 lower than those specified in this act. Such practice shall continue  
 277 only for such time as the board requires for the consideration of the  
 278 application for license; or  
 279 (b) the work of an employee or a subordinate of a person holding  
 280 a license under this act, or an employee of a person practicing  
 281 lawfully under subsection (a) of this section, provided such work does  
 282 not include final designs or decisions, responsible charge of design  
 283 or supervision and is done under the direct responsibility and su-  
 284 pervision of a person practicing lawfully under subsection (a) of this  
 285 section; or  
 286 (c) the practice of persons who are not residents of and have not  
 287 established a place of business in this state, who are acting as con-  
 288 sulting associates of persons licensed under the provisions of this  
 289 act. Such Any person shall be legally qualified for such professional  
 290 service in his or her such person's own state or country; or  
 291 (d) the practice of persons who are employees of any person,  
 292 firm or corporation who do not offer to the public their services in  
 293 the technical professions as herein defined; or  
 294 (e) the practice of any person who is exclusively and regularly  
 295 employed by one employer only, said the employer not being an  
 296 engineering, architectural, or land surveying firm, and said the em-  
 297 ployer not being primarily engaged in the business of conveying an  
 298 interest in real property, in an employer-employee relationship, in  
 299 making surveys of land and determinations of physical property rights  
 300 in connection only with the affairs of such employer or its subsidi- es  
 301 and affiliates and for the uses, purposes and benefit of such employer,  
 302 subsidiaries and affiliates, only; or  
 303 (f) a nonresident, who holds a license or certificate to practice  
 304 the technical professions in another state, who agrees to perform or  
 305 holds oneself out as able to perform any of the technical professions  
 306 so long as such person, prior to licensure in this state, notifies the  
 307 board in writing if such person engages in such activities.  
 308 Sec. 23. K.S.A. 74-7036 is hereby amended to read as follows:  
 309 74-7036. (a) The practice of or offer to practice any profession in-  
 310 cluded within the term "technical professions" by an indiv li-  
 311 censed to practice the technical professions through a corpor. as

an officer, employee or agent of such corporation is authorized as provided under this section if: (1) One or more of the corporate officers of such corporation is designated as responsible for the activities and decisions relating to the practice of such profession and is licensed to practice such profession by the state board of technical professions and is a regular employee of the corporation, a member of its board of directors and a holder of its stock; (2) all personnel of said such corporation who act in its behalf in the practice of such profession are licensed to practice such profession by the state board of technical professions or are persons lawfully practicing under K.S.A. 74-7031 to 74-7035, inclusive, and any amendments thereto, or are exempt from examination for licensure in this state under K.S.A. 74-7024, and any amendments thereto; and (3) such corporation has been issued a certificate of authorization by the state board of technical professions.

(b) A corporation may apply to the board of technical professions for a certificate of authorization, upon a form prescribed and furnished by the board, listing the names and addresses of all officers and members of the board of the corporation and also of an individual or individuals licensed to practice a branch of the technical professions who will be responsible for the practice of such branch of the technical professions in this state through such corporation, and such other information as may be required by the board of technical professions. The application for a certificate of authorization shall be accompanied by an application fee fixed by the board under K.S.A. 74-7009 and amendments thereto. The biennial renewal fee fixed by the board under K.S.A. 74-7009 and amendments thereto shall be accompanied by the same form providing current information. In the event of a change of any officer of such corporation or a change of any member of the board, such change shall be designated on such form and filed with the board within ~~thirty (30)~~ 30 days after the effective date of such change.

(c) If the board of technical professions finds that such corporation is in compliance with all of the requirements of this section, the board shall issue a certificate of authorization to such corporation designating the branch or branches of the technical professions for which such corporation is authorized to provide services. A corpo

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ration to which a certificate of authorization has been issued is authorized to provide services in the branch or branches of the technical professions for which such corporation is authorized to provide services under such certificate of authorization.

(d) No corporation issued a certificate of authorization under this section shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of its compliance with the provisions of this section, nor shall any individual practicing a branch of the technical professions be relieved of responsibility and liability for services performed by reason of employment or relationship with such corporation. The requirements of this section shall not affect a corporation and its employees in performing services included within the term "technical professions" solely for the benefit of such corporation or subsidiary or affiliated corporations. Nothing in this section shall exempt any corporation from the provisions of any other law applicable thereto.

(e) As used in this section, the term "corporation" shall not include corporations organized under the professional corporation law of Kansas.

New Sec. 24. (a) A public official charged with the enforcement of any state, county or municipal building code shall not accept or approve any technical submissions involving the practice of the technical professions unless the technical submissions have been stamped with the technical professional's seal as required by this act, or unless the applicant has certified on the technical submission to the applicability of a specific exception provided for in K.S.A. 74-7035 and amendments thereto permitting the preparation of the technical submissions by a person not licensed under this act. A building permit issued with respect to technical submissions which does not conform to the requirements of this act is invalid.

(b) A violation of this section may be punished pursuant to the authority of the board under section 25.

New Sec. 25. (a) The state board of technical professions, in addition to any other penalty prescribed under the act governing the technical professions, may assess civil fines and costs, including attorney fees, after proper notice and an opportunity to be heard, against any person or entity for a violation of the statutes, rules

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386 regulations or orders enforceable by the board in an amount not to  
 387 exceed \$5,000 for the first violation, \$10,000 for the second violation  
 388 and \$15,000 for the third violation and for each subsequent violation.  
 389 All civil fines assessed and collected under this section shall be  
 390 remitted to the state treasurer at least monthly and shall be deposited  
 391 in the state treasury and credited to the state general fund. All costs  
 392 assessed under this section shall be remitted to the state treasurer  
 393 at least monthly and shall be deposited in the state treasury and  
 394 credited to the technical professions fee fund.

395 (b) In determining the amount of penalty to be assessed pursuant  
 396 to this section, the board may consider the following factors among  
 397 others: (1) Willfulness of the violation; (2) repetitions of the violation;  
 398 and (3) magnitude of the risk of harm caused by the violation.

399 New Sec. 26. Any person licensed to practice the technical  
 400 professions in the state of Kansas at the time this act takes effect  
 401 shall thereafter continue to possess the same rights and privileges  
 402 with respect to the practice of the technical profession for which  
 403 such person is licensed without being required to obtain a new  
 404 license under the provisions of this act, subject to the power of the  
 405 board as provided in this act to suspend or revoke the license of  
 406 any such person for any of the causes set forth in K.S.A. 74-7026  
 407 and amendments thereto, and subject to the power of the board to  
 408 require any such person to renew such license as provided in K.S.A.  
 409 74-2025 and amendments thereto.

410 New Sec. 27. The state board of technical professions shall adopt  
 411 rules and regulations establishing the criteria which a school or cur-  
 412 riculum, or both, shall satisfy to be approved by the board under  
 413 K.S.A. 74-7019, 74-7020, 74-7021 and 74-7022, and amendments to  
 414 such sections. The board may send a questionnaire developed by  
 415 the board to any college or university or other school conducting  
 416 an educational curriculum in one of the technical professions for  
 417 which the board does not have sufficient information to determine  
 418 whether the school or curriculum should be approved by the board  
 419 and whether the school or curriculum, or both, meets the rules and  
 420 regulations adopted under this section. The questionnaire providing  
 421 the necessary information shall be completed and returned to the  
 422 board in order for the school or curriculum to be considered for

423 approval. The board may contract with investigative agencies or  
 424 missions or consultants to assist the board in obtaining information  
 425 about a school or curriculum, or both. In entering such contracts,  
 426 the authority to approve a school or curriculum shall remain solely  
 427 with the board.

428 Sec. 28. K.S.A. 74-7003, 74-7005, 74-7006, 74-7008, 74-7009, 74-  
 429 7010, 74-7011, 74-7012, 74-7014, 74-7016, 74-7017, 74-7018, 74-7019,  
 430 74-7020, 74-7021, 74-7023, 74-7025, 74-7026, 74-7029, 74-7031, 74-  
 431 7032, 74-7033, 74-7035 and 74-7036 and K.S.A. 1988 Supp. 74-702  
 432 and 74-7034 are hereby repealed.

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

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