

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 A.M. on February 21, 2008 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Jennifer Thierer, Kansas Legislative Research Department  
Kathie Sparks, Kansas Legislative Research Department  
Jason Long, Revisor of Statutes  
Jackie Lunn, Committee Assistant

Conferees appearing before the committee:

Sandy Barnett, Kansas Coalition for Sexual and Domestic Violence

Others attending:

See attached list.

To read testimony submitted by conferees go to:

[http://skyways.lib.ks.us/government/KansasSenateCommerceCommittee.](http://skyways.lib.ks.us/government/KansasSenateCommerceCommittee)

**SB 612--Discrimination in employment; victims of domestic violence and sexual abuse; authorizing enforcement and rules and regulations authority for the secretary of labor.**

**SB 525--Kansas investments in major products and comprehensive training act (IMPACT) amendments**

**SB 501--Establishment of the Kansas Tourism Corporation**

Chairperson Brownlee called the Committee's attention to **SB 525** stating she talked to budgeted regarding the concerns with the fiscal note and introduced Duane Goossen, Director of Budget, to explain the fiscal note on the bill. Mr. Goossen stated the bill as proposed will have an impact on State General Fund revenues but it does not have an impact on expenditures. He stated it would reduce the amount of revenue that they will have to work with. Currently IMPACT funds are taken out of the State General Fund and used to pay bonds. They are then transferred over to bond payment such as an income tax refund is paid out to any Kansas citizen. It is not counted as an expense and it is deducted from revenue before they even consider how much State General Fund revenue is available. If this bill passes, \$24 Million will be taken out of that revenue pool and will not be available for the budget. It would reduce the amount of revenue they have to work with and it lower the balance in the State General Fund.

A discussion followed with the Committee regarding Mr. Goossen's statements regarding the fiscal note on **SB 525**. It was noted by Mr. Goossen that this bill is not reflected in the budget that the Governor brought forth. The Committee has issues with the fiscal note and how it is written. There was some discussion on changing the bill to treat it as an expense and not a revenue transfer. Mr. Goossen stated they could do that but the ending balance would be the same.

Chairperson Brownlee moved the attention of the Committee to **SB 612** opening the hearing and introducing Sandy Barnett representing the Kansas Coalition for Sexual and Domestic Violence, to give her testimony as a proponent of the bill. Ms. Barnett presented written testimony (Attachment 1) which can be found in its entirety on the link shown above. Ms. Barnett stated this was a clean-up bill for the bill which came out of the Commerce Committee two years ago.

Chairperson Brownlee opened the floor for questions, being none she asked if there was anyone else that wanted to testify on **SB 612**. With no others to testify, she closed the hearing.

**Senator Schodorf made a motion to move the bill out favorable and to put it on the consent calendar. Senator Kelly seconded. Motion carried.**

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on February 21, 2008 in Room 123-S of the Capitol.

Chairperson Brownlee turned the Committee's attention to **SB 501**. She called on Jason Long, Revisors Office, to explain the balloon amendment on **SB 501**. Mr. Long presented written copy (Attachment 2) of the balloon amendment and reviewed that for the Committee. Upon the conclusion of Mr. Long's testimony Chairperson Brownlee turned the Chair over to Senator Jordan.

A discussion followed regarding using gaming funds for the Kansas tourism corporation. Senator Wagle has concerns using money that is tied up in a court ruling and that they might not even get. It was noted by Mr. Long that the money is not credited to the Kansas tourism corporation unless there is money in the revenue fund. Mr. Long stated the balloon is a result of Department of Revenue and the sponsors of the bill. The funding source for the tourism corporation was discussed. Dick Carter, KTIA, stated that they tried to look at funding streams that were initially revenue neutral and that would not have a big impact on the State General Fund. The bill also captures the current funding dollars that flow through the Division of Travel & Tourism which is \$1.8 Million in EDIF. The Committee has concerns with using the gaming money and would like to find another funding source for the tourism corporation because they would like for the tourism corporation to succeed. Senator Emler has concerns with page 11, line 5, of the balloon and would like to strike some of the wording. It was noted by Dick Carter, TIAK and Secretary Wagon, that nobody will be able to look at the confidential information on the taxation collected from tourism companies doing business in the state except the Department of Revenue and the tourism corporation will have to accept the reconciled information provided by the Department of Revenue. The wording on Page 11, line 5 was discussed in detail.

**Senator Emler made a motion to change the wording on Page 11, line 5, making the last sentence to read "Such payments shall be reconciled on at least an annual basis." striking "by a method agreed to by the department of revenue and the corporation." Senator Barone seconded. Motion carried.**

Chairperson Jordan called for other comments or motions on the bill and recognized Senator Schodorf who inquired if there was an alternative solution for the funding because she feels this is an important bill that is needed for tourism in Kansas. She suggested that maybe the gaming funding should be taken out of the bill until the court make it's ruling. A discussion followed. Some of the Committee members feel that the gaming funding might kill the bill on the Senate floor.

**Senator Brownlee made a motion to remove Section 74-8768 removing all the gaming from the bill, to approve the amended balloon and make the bill a substitute bill.. Barone seconded. Motion carried.**

A discussion followed regarding the staff which would transfer from the Department to the Kansas Tourism Corporation and the staff expenses.

Chairperson Jordan adjourned the meeting at 9:25 a.m. with the next scheduled meeting February 22, 2008 at 8:30 a.m. in room 123 S.



# Kansas Coalition Against Sexual and Domestic Violence

SAFETY • ACCOUNTABILITY • JUSTICE



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Senate Commerce Committee  
February 21, 2008  
SB 612

Chairwoman Karin Brownlee, Chairman Nick Jordan, and Members of the Senate Commerce Committee:

The Kansas Coalition Against Sexual and Domestic Violence (KCSDV) is a statewide organization. Its member programs provide services directly to victims of sexual and domestic violence across the state.

In 2006, Kansas took an important step forward with the passage of workplace protections for victims of sexual and domestic violence. Briefly, these two statutes (K.S.A. 44-1131 and K.S.A. 44-1132) allow victims to take time off work in order to deal with the impact of sexual and domestic violence. This time off can be used for appearing in court, getting to medical appointments, obtaining a protection order, and/or otherwise dealing with the aftermath of the violence. Because having stable employment is so critical for survivors of sexual and domestic violence, this relatively new law is vitally important.

Unfortunately, when this law was passed in 2006, through the legislative give and take process, the criminal enforcement provision was omitted and no rule-making authority was authorized. As it stands now, this is great public policy with no enforcement mechanism. Employers and employees need guidance on how to use, apply, and enforce this law.

Senate Bill 612 merely gives the Kansas Department of Labor enforcement and rule-making authority in this area.

Last summer, as it became apparent that this law had no enforcement mechanism, KCSDV contacted the Kansas Department of Labor who agreed to take on this task should the Legislature assign it to them by statute.

KCSDV fully supports SB 612 and urges the committee to act on it favorably.

Respectfully submitted,

Sandy Barnett  
Executive Director

Senate Commerce Committee  
February 21, 2008

Attachment 1-1

## SENATE BILL No. 501

By Joint Committee on Economic Development

1-29

9 AN ACT concerning tourism; creating the Kansas tourism corporation  
10 and providing for the powers and duties thereof; transferring the pow-  
11 ers and duties of the division of travel and tourism development to the  
12 Kansas tourism corporation; providing for tourism development and  
13 funding; amending K.S.A. 73-2103 ~~and 75-2035b~~ and K.S.A. 2007  
14 Supp. 73-2402, 73-2404, 74-5005 and ~~74-8734~~ and repealing the ex-  
15 isting sections; also repealing K.S.A. 74-5032, 74-5032a and 74-5090  
16 and K.S.A. 2007 Supp. 74-5089, 74-5091, 74-9001, 74-9002, 74-9003,  
17 74-9004 and 74-9005.

74-8768

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

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

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

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

31 (a) "Base year taxation" means all of the 2007 state sales taxes im-  
32 posed by K.S.A. 79-3603, and amendments thereto, collected from tour-  
33 ism companies doing business in the state. ~~The base year taxation may be~~  
34 ~~adjusted in future years to account for the addition of new tourism com-~~  
35 ~~panies and the identification of existing tourism companies inadvertently~~  
36 ~~omitted from prior determinations. When a tourism company is added,~~  
37 ~~the base year taxation shall be amended by all of such company's 2007~~  
38 ~~state sales taxes imposed by K.S.A. 79-3603, and amendments thereto, if~~  
39 ~~any.~~

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

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

43 (d) "NAICS" means the North American industry classification

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Attachment 2-1

1 system.

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

4 (f) "Taxpayer" means a person, corporation, limited liability company,  
5 S corporation, partnership, registered limited liability partnership, foun-  
6 dation, association, nonprofit entity, sole proprietorship, business trust,  
7 group or other entity that is subject to the Kansas income tax act K.S.A.  
8 79-3201 et seq., and amendments thereto.

9 (g) "Tourism" means a stay of one or more nights away from home  
10 for holidays, visits to friends or relatives, business conferences or any  
11 other purposes other than boarding, education or semi-permanent em-  
12 ployment, and the provision of goods related thereto.

13 (h) "Tourism company" means a corporation, limited liability com-  
14 pany, S corporation, partnership, registered limited liability partnership,  
15 foundation, association, nonprofit entity, sole proprietorship, business  
16 trust, person, group or other entity that is engaged in the business of  
17 tourism in the state and has business operations in the state, including,  
18 without limitation, research, development or production directed towards  
19 developing or providing tourism products or services for specific com-  
20 mercial or public purposes and are identified by the following NAICS  
21 codes: 71111, 71113, 71119, 71121, 71131, 71132, 71151, 71211, 71212,  
22 71213, 71311, 71312, 71329, 71393, 71394, 71395, 71399, 72111, 72112,  
23 72119, 72121, 72131, 72211, 72221, 72231, 72232, 72233 and 72241.

24 (i) "Travel and tourism development fund" means the fund created  
25 by section 15, and amendments thereto.

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

33 (b) The corporation shall be governed by a board of 13 directors. The  
34 board of directors shall consist of: (1) Three members appointed by the  
35 governor, each of whom shall be recognized for outstanding knowledge  
36 and leadership in the fields of tourism, tourism marketing and tourism  
37 market research; (2) two members appointed by the speaker of the house  
38 of representatives, at least one of whom shall be a current member of the  
39 house of representatives; (3) two members appointed by the president of  
40 the senate, at least one of whom shall be a current member of the senate;  
41 (4) one member appointed by the minority leader of the house of rep-  
42 resentatives; (5) one member appointed by the minority leader of the  
43 senate; and (6) four members appointed by the travel industry association

1 of Kansas. All members of the board shall be subject to senate confir-  
2 mation as provided in K.S.A. 75-4315b, and amendments thereto. Except  
3 as provided by K.S.A. 46-2601, and amendments thereto, no person shall  
4 exercise any power, duty or function as a member of the board until  
5 confirmed by the senate. Any member of the board whose nomination is  
6 subject to confirmation during a regular session of the legislature shall be  
7 deemed terminated when the senate rejects the nomination. No such  
8 termination shall affect the validity of any action taken by such member  
9 of the board before such termination.

10 (c) Of the members who will be appointed to the corporation's first  
11 board, the members appointed by the governor shall be appointed for a  
12 term of four years, the members appointed by the speaker of the house  
13 of representatives and the president of the senate shall be appointed for  
14 a term of three years, the members appointed by the minority leader of  
15 the house of representatives and the minority leader of the senate shall  
16 be appointed for a term of two years and the members appointed by the  
17 travel industry association of Kansas shall be appointed for a term of one  
18 year. Members of the first board shall be appointed by October 1, 2008.

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

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

41 (f) Members of the board attending board meetings or subcommittee  
42 meetings authorized by the board, shall be paid mileage and all other  
43 applicable expenses by the corporation, provided such expenses are con-

1 sistent with policies established from time-to-time by the board.

2 (g) No part of the funds of the corporation shall inure to the benefit  
3 of, or be distributed to, its employees, officers or members of the board,  
4 except that the corporation may make reasonable payments for expenses  
5 incurred on its behalf relating to any of its lawful purposes and the cor-  
6 poration shall be authorized and empowered to pay reasonable compen-  
7 sation for services rendered to or for its benefit relating to any of its lawful  
8 purposes, including to pay its employees reasonable compensation.

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

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

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

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

42 New Sec. 5. (a) No business of the board shall be transacted except  
43 at a regular or special meeting at which a quorum consisting of at least a



1 majority of the total membership of the board is present. Any action of  
2 the board shall require the affirmative vote of a majority of those at any  
3 meeting of the board at which a quorum is present.

4 (b) Notwithstanding any provision of K.S.A. 75-4317 et seq., and  
5 amendments thereto, in the case of the corporation, discussion and con-  
6 sideration on any of the following may occur in executive session, when  
7 in the opinion of the board, disclosure of the items would be harmful to  
8 the competitive position of the corporation:

9 (1) Plans that could affect the value of property, real or personal,  
10 owned or desirable for ownership by the corporation;

11 (2) the condition, acquisition, use or disposition of real or personal  
12 property; or

13 (3) contracts for research, product manufacturing or commercializa-  
14 tion, construction and renovation of facilities and marketing or opera-  
15 tional strategies.

16 (c) Notwithstanding any provision of this section to the contrary, the  
17 corporation may claim the benefit of any other exemption to the Kansas  
18 open meetings act listed in K.S.A. 75-4317 et seq., and amendments  
19 thereto.

20 New Sec. 6. (a) All resolutions and orders of the board shall be re-  
21 corded and authenticated by the signature of the secretary or any assistant  
22 secretary of the board. The book of resolutions, orders, minutes of open  
23 meetings, annual reports and annual financial statements of the Kansas  
24 tourism corporation shall be public records as defined by K.S.A. 45-215  
25 et seq., and amendments thereto. All public records shall be subject to  
26 regular audit as provided in K.S.A. 46-1106, and amendments thereto.

27 (b) (1) Notwithstanding any provision of K.S.A. 45-215 et seq., and  
28 amendments thereto, to the contrary, the following records of the cor-  
29 poration shall not be subject to the provisions of the Kansas open records  
30 act, when in the opinion of the board, the disclosure of the information  
31 in the records would be harmful to the competitive position of the  
32 corporation:

33 (A) Proprietary information gathered by or in the possession of the  
34 corporation from third parties pursuant to a promise of confidentiality;

35 (B) contract cost estimates prepared for confidential use in awarding  
36 contracts for construction, renovation, commercialization or the purchase  
37 of goods or services; and

38 (C) data, records or information of a proprietary nature produced or  
39 collected by or for the corporation, its employees, officers or members  
40 of its board; financial statements not publicly available that may be filed  
41 with the corporation from third parties; the identity, accounts or account  
42 status of any customer of the corporation; consulting or other reports paid  
43 for by the corporation to assist the corporation in connection with its

1 strategic planning and goals; and the determination of marketing and  
2 operational strategies where disclosure of such strategies would be harm-  
3 ful to the competitive position of the corporation.

4 (2) The provisions of this subsection shall expire on July 1, 2013. Prior  
5 to such date the legislature shall review the provisions of this subsection.

6 (c) Notwithstanding any provision of this section to the contrary, the  
7 corporation may claim the benefit of any other exemption to the Kansas  
8 open records act listed in K.S.A. 45-215 et seq., and amendments thereto.

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

22 (b) All members of the board and all officers of the corporation shall  
23 file a written statement pursuant to K.S.A. 46-247 et seq., and amend-  
24 ments thereto, regarding any substantial interests, within the meaning of  
25 K.S.A. 46-229, and amendments thereto, that each director or officer may  
26 hold. Any employee, agent or advisor of the corporation who has a sub-  
27 stantial interest in any contract or transaction with the corporation within  
28 the meaning of K.S.A. 46-229, and amendments thereto, shall file a writ-  
29 ten statement of substantial interest pursuant to K.S.A. 46-247 et seq.,  
30 and amendments thereto.

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

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

36 (2) sue and be sued;

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

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

43 (5) purchase, lease, trade, exchange or otherwise acquire, maintain,

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1 hold, improve, mortgage, sell and dispose of personal property, whether  
2 tangible or intangible, and any interest therein, and to purchase, lease,  
3 trade, exchange or otherwise acquire real property or any interest therein,  
4 and to maintain, hold, improve, mortgage, sell, lease and otherwise trans-  
5 fer such real property to the public institutions and private enterprises in  
6 the state, so long as such transactions do not conflict with the purposes  
7 of the corporation as specified in this act;

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

11 (7) own, possess and take license in patents, copyrights, trademarks  
12 and proprietary processes and to negotiate and enter into contracts for  
13 the purposes of commercializing and establishing charges for the use of  
14 such patents, copyrights, trademarks and proprietary processes involving  
15 tourism;

16 (8) contract for and to accept any gifts, grants and loans of funds,  
17 property or any other aid in any form from the federal government, the  
18 state, any state agency or any other source, or any combination thereof,  
19 and to comply with the provisions of the terms and conditions thereof;

20 (9) acquire space, equipment, services, supplies and insurance nec-  
21 essary to carry out the purposes of this act;

22 (10) provide and pay for such advisory services and technical assis-  
23 tance that may be necessary or desirable to carry out the purposes of the  
24 corporation;

25 (11) solicit, study and assist in the preparation of business plans and  
26 proposals of new or established businesses to advance tourism in the state;

27 (12) organize, conduct, sponsor or cooperate with and assist both the  
28 private sector and educational institutions in the conduct of special insti-  
29 tutes, conferences, demonstrations and studies relating to the marketing  
30 and promotion of tourism in Kansas;

31 (13) participate with any state agency or educational institution in  
32 developing specific programs and goals to assist in research and devel-  
33 opment in the fields of tourism and tourism marketing;

34 (14) establish a program of awarding grants to private and public en-  
35 tities to encourage and facilitate the marketing and promotion of tourism  
36 in the state of Kansas;

37 (15) provide marketing and promotion of the state of Kansas, includ-  
38 ing the development of products and services designed to promote the  
39 state, conducting research and facilitating product development in the  
40 fields of tourism;

41 (16) exercise any and all powers, duties and functions transferred and  
42 conferred upon the corporation pursuant to sections 19 through 25, and  
43 amendments thereto; and

18

24

1 (17) do any and all things necessary or convenient to carry out the  
2 corporation's purposes and exercise the powers given in this act.

3 (b) The board of directors of the Kansas tourism corporation may  
4 adopt a name that is different from the name "Kansas tourism corpora-  
5 tion" for use by the corporation on all literature, brochures, letterhead  
6 and any other materials or publications produced by the corporation and  
7 for any other purpose the corporation deems necessary, except that the  
8 corporation shall use the name "Kansas tourism corporation" when exe-  
9 cuting any documents having legal significance. Any name adopted pur-  
10 suant to this subsection may be changed from time to time as the board  
11 determines is in the best interests of the corporation.

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

16 (d) In carrying out any activities authorized by this act, the corpora-  
17 tion may provide appropriate assistance, including the making of loans  
18 and providing time of employees, to any taxpayer, governmental body or  
19 agency, university and college of the state or any other entity, whether or  
20 not any such taxpayer, governmental body or agency, university and col-  
21 lege of the state, or any other entity is owned or controlled in whole or  
22 in part, directly or indirectly, by the corporation.

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

30 (f) Except as provided in this act, all moneys earned or received by  
31 the corporation, including all funds derived from the tourism promotion  
32 and development activities conducted by the corporation or from the  
33 travel and tourism development fund, shall belong exclusively to the  
34 corporation.

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

36 New Sec. 9. (a) The Kansas tourism corporation shall prepare and  
37 publish an annual report and present such report to the legislature, the  
38 governor and Kansas, Inc. The report shall include detailed information  
39 on the operations and transactions conducted pursuant to this act, the  
40 distributions from the travel and tourism development fund and the use  
41 of corporation income, investments and income tax credits and exemp-  
42 tions attributed to Kansas tourism corporation activity.

43 (b) Three years from the effective date of this act and every three

1 years thereafter, the corporation shall be subject to review by Kansas, Inc.  
2 In the review, Kansas, Inc. shall evaluate and report on the effectiveness  
3 of the activities of the Kansas tourism corporation in the manner provided  
4 in K.S.A. 74-8010, and amendments thereto.

5 New Sec. 10. (a) The Kansas tourism corporation may employ such  
6 employees as it may require and upon such terms and conditions as it  
7 may establish. The corporation shall establish personnel, payroll, benefit  
8 and other such systems as authorized by the board, such systems to be  
9 initially established or contracted as designated by the board. The cor-  
10 poration shall determine the qualifications and duties of its employees.  
11 The board shall develop and adopt policies and procedures that will afford  
12 its employees grievance rights, ensure that employment decisions shall  
13 be based upon merit and fitness of applicants and shall prohibit discrim-  
14 ination because of race, religion, color, sex or national origin.

15 (b) The provisions of article 32 of chapter 75 of the Kansas Statutes  
16 Annotated, any acts amendatory thereof or supplemental thereto and any  
17 rules and regulations adopted thereunder, shall not apply to members of  
18 the board of directors, officers or employees of the Kansas tourism cor-  
19 poration. Subject to policies established by the board of directors, the  
20 president of the corporation or the president's designee shall be author-  
21 ized to approve all travel and travel expenses of such officers and  
22 employees.

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

26 New Sec. 11. The corporation may, at the election of the board, af-  
27 filiate with the Kansas public employees retirement system with respect  
28 to any or all employees employed by the corporation on or after the  
29 effective date of this act, in accordance with the provisions of K.S.A. 74-  
30 4910, and amendments thereto. The corporation may, at the election of  
31 the board, adopt, in accordance with requirements of the federal internal  
32 revenue code, a retirement plan or plans sponsored by the corporation  
33 with respect to employees employed by the corporation on or after the  
34 effective date of this act. The corporation may, at the discretion of the  
35 board, provide death and disability benefits as provided in K.S.A. 74-  
36 4927a and 74-4927g, and amendments thereto.

37 New Sec. 12. The Kansas tourism corporation shall be exempt from  
38 any real and personal property taxes upon any property of the corporation  
39 acquired and used for its public purposes, and from any taxes or assess-  
40 ments upon any projects or upon any operations of the corporation or  
41 the income therefrom, and from any taxes or assessments upon any pro-  
42 ject or any property or local obligation acquired or used by the corporation  
43 under the provisions of this act or upon the income therefrom. Purchases

1 by the corporation to be used for its public purposes shall not be subject  
 2 to sales or use tax under K.S.A. 79-3601 et seq., K.S.A. 79-3701 et seq.  
 3 and subsection (b) of K.S.A. 79-3606, and amendments thereto. The ex-  
 4 emptions hereby granted shall not extend to persons or entities conduct-  
 5 ing business on the corporation's property for which payment of state and  
 6 local taxes would otherwise be required.

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

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

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

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

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

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

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

30 (d) The division of post audit is hereby authorized to conduct a post  
 31 audit in accordance with the provisions of the state post audit act, K.S.A.  
 32 46-1106 et seq., and amendments thereto.

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

37 New Sec. 16. (a) The secretary of revenue and the Kansas tourism  
 38 corporation shall establish the base year taxation for all tourism compa-  
 39 nies. The secretary of revenue and the corporation may consider any  
 40 verifiable evidence, including, but not limited to, the NAICS code as-  
 41 signed or recorded by the department of ~~labor for companies with em-~~  
 42 ~~ployees in Kansas~~, when determining which companies should be classi-  
 43 fied as tourism companies.

revenue for companies subject to state sales tax imposed by K.S.A. 79-3603,  
 and amendments thereto

1 (b) The state treasurer shall pay annually 50% of the state sales tax  
 2 imposed by K.S.A. 79-3603, and amendments thereto, above the base  
 3 year taxation collected from tourism companies doing business within the  
 4 state, as certified by the secretary of revenue, to the travel and tourism  
 5 development fund established by section 15, and amendments thereto.

On and after July 1, 2008, the

quarterly

6 ~~[New Sec. 17. (a) For taxable years commencing after December 31,~~  
 7 ~~2008, a credit against the tax imposed by article 32 of chapter 70 of the~~  
 8 ~~Kansas Statutes Annotated on the Kansas taxable income of the taxpayer~~  
 9 ~~shall be allowed for cash contributions to the Kansas tourism corporation.~~  
 10 ~~The credit shall be in a total amount equal to 50% of such taxpayer's cash~~  
 11 ~~contribution to the corporation, subject to the limitations set forth in~~  
 12 ~~subsection (b). This tax credit may be used in its entirety in the taxable~~  
 13 ~~year in which the cash contribution is made. If the amount by which that~~  
 14 ~~portion of the credit allowed by this section exceeds the taxpayer's liability~~  
 15 ~~in any one taxable year, beginning in the year 2008, the remaining portion~~  
 16 ~~of the credit may be carried forward until the total amount of the credit~~  
 17 ~~is used.~~

Such payments shall be reconciled on at least an annual basis by a method agreed to by the department of revenue and the corporation.

18 (b) The total amount of tax credits which may be allowed under this  
 19 section shall not exceed \$1,000,000 for any one fiscal year.

20 (c) The secretary of revenue shall adopt rules and regulations to im-  
 21 plement the provisions of this section.]

Renumber the remaining sections accordingly

22 New Sec. 18. Each tourism company receiving grants, awards or any  
 23 other financial assistance, including financing for any tourism develop-  
 24 ment project, under the provisions of this act shall repay such financial  
 25 assistance to the corporation, in the amount determined by the corpo-  
 26 ration, if such tourism company relocates operations, in which the cor-  
 27 poration invested, outside Kansas within 10 years after receiving such  
 28 financial assistance. Each such tourism company shall enter into a repay-  
 29 ment agreement with the corporation specifying the terms of such re-  
 30 payment obligation.

31 New Sec. 19. (a) The director of accounts and reports shall transfer  
 32 all balances for all funds or accounts thereof appropriated or reappro-  
 33 priated for the department of commerce relating to the powers, duties  
 34 and functions of the division of travel and tourism development created  
 35 by K.S.A. 74-5032, and amendments thereto, to the travel and tourism  
 36 development fund established by section 15, and amendments thereto.

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

19

41 (c) Except as otherwise provided in sections 20 through 23, and  
 42 amendments thereto, all of the powers, duties and functions of the exist-  
 43 ing division of travel and tourism development are hereby transferred to

22

1 and conferred and imposed upon, the Kansas tourism corporation created  
2 by section 4, and amendments thereto, and the division of travel and  
3 tourism development is hereby abolished.

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

6 New Sec. 20. (a) The Kansas tourism corporation created by section  
7 4, and amendments thereto, shall be the successor in every way to the  
8 powers, duties, and functions of the division of travel and tourism devel-  
9 opment created by K.S.A. 74-5032, and amendments thereto, in which  
10 the same were vested prior to the effective date of this section and that  
11 are transferred pursuant to section ~~19~~ and amendments thereto. Every 18  
12 act performed in the exercise of such transferred powers, duties, and  
13 functions by or under the corporation pursuant to this act shall be deemed  
14 to have the same force and effect as if performed by the division of travel  
15 and tourism development in which such powers, duties, and functions  
16 were vested prior to the effective date of this section.

17 (b) Whenever the division of travel and tourism development or  
18 words of like effect, are referred to or designated by a statute, contract  
19 or other document and such reference is in regard to any of the powers,  
20 duties or functions transferred to the Kansas tourism corporation pur-  
21 suant to section ~~19~~, and amendments thereto, such reference or design- 18  
22 nation shall be deemed to apply to the Kansas tourism corporation.

23 (c) All rules and regulations, orders and directives of the division of  
24 travel and tourism development which relate to the functions transferred 18  
25 by section ~~19~~, and amendments thereto, and which are in effect on the  
26 effective date of this section shall continue to be effective and shall be  
27 deemed to be rules and regulations, orders and directives of the Kansas  
28 tourism corporation until revised, amended, revoked or nullified pursuant  
29 to law.

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

32 New Sec. 21. (a) When any conflict arises as to the disposition of any  
33 property, power, duty, or function or the unexpended balance of any  
34 appropriation as a result of any abolition or transfer made by or under  
35 this act, such conflict shall be resolved by the governor, whose decision  
36 shall be final.

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

43 (c) The provisions of this section shall take effect and be in force on



1 and after January 1, 2009.

2 New Sec. 22. (a) The Kansas tourism corporation shall have the legal  
3 custody of all records, memoranda, writings, entries, prints, representa-  
4 tions, electronic data or combinations thereof of any act, transaction, oc-  
5 currence or event of the division of travel and tourism development.

6 (b) No suit, action, or other proceeding, judicial or administrative,  
7 lawfully commenced, or which could have been commenced, by or against  
8 any state agency or program mentioned in this act, or by or against any  
9 officer of the state in such officer's official capacity or in relation to the  
10 discharge of such officer's official duties, shall abate by reason of the  
11 governmental reorganization effected under the provisions of this act. The  
12 court may allow any such suit, action, or other proceeding to be main-  
13 tained by or against the successor of any such state agency or any officer  
14 affected.

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

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

19 New Sec. 23. (a) All officers and employees of the division of travel  
20 and tourism development who, immediately prior to the effective date of  
21 this section, are engaged in the exercise and performance of the powers,  
22 duties, and functions transferred by section 19, and amendments thereto,  
23 as well as all officers and employees of the division of travel and tourism  
24 development who are determined by the secretary of commerce to be  
25 engaged in providing administrative, technical, or other support services  
26 that are essential to the exercise and performance of the powers, duties,  
27 and functions transferred by section 19, and amendments thereto, are  
28 hereby transferred to the Kansas tourism corporation. All such employees  
29 so transferred shall be deemed unclassified employees upon the effective  
30 date of this section regardless of such employees' classification prior to  
31 the effective date of this section.

18

18

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

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

39 New Sec. 24. (a) On January 1, 2009, the director of accounts and  
40 reports shall transfer any remaining balance in the state tourism fund  
41 established by K.S.A. 74-9003, and amendments thereto, to the travel and  
42 tourism development fund established by section 15, and amendments  
43 thereto.

1 (b) On January 1, 2009, all liabilities of the state tourism fund are  
 2 hereby imposed on the travel and tourism development fund, and the  
 3 state tourism fund and the council on travel and tourism created by K.S.A.  
 4 74-9001, and amendments thereto, are hereby abolished.

5 New Sec. 25. (a) On January 1, 2009, the director of accounts and  
 6 reports shall transfer any remaining balance in the Kansas tourist attrac-  
 7 tion matching grant development fund established by K.S.A. 74-5091, and  
 8 amendments thereto, to the travel and tourism development fund estab-  
 9 lished by section 15, and amendments thereto.

10 (b) On January 1, 2009, all liabilities of the Kansas tourist attraction  
 11 matching grant development fund are hereby imposed on the travel and  
 12 tourism development fund, and the Kansas tourist attraction matching  
 13 grant development fund and the state matching grant program estab-  
 14 lished by K.S.A. 74-5089, and amendments thereto, are hereby abolished.

15 New Sec. 26. Insofar as the provisions of this act are inconsistent  
 16 with the provisions of any other law, general, specific or local, the pro-  
 17 visions of this act shall be controlling.

18 New Sec. 27. The corporation is exempt from the provisions of  
 19 K.S.A. 12-1675 through 12-1677, 45-401 through 45-413, 75-2925  
 20 through 75-2975, 75-3701 through 75-37,119, 75-4362, 75-4701 through  
 21 75-4717 and 77-501 through 77-550, and amendments thereto.

22 New Sec. 28. If any provision of this act, or the acts contained in this  
 23 act, or the application thereof is held invalid, the invalidity shall not affect  
 24 other provisions or applications of the act, or the acts contained in this  
 25 act, which can be given effect without the invalid provision or application,  
 26 and to this end the provisions of this act, and the acts contained in this  
 27 act, are severable.

28 Sec. 29. On and after January 1, 2009, K.S.A. 73-2103 is hereby  
 29 amended to read as follows: 73-2103. (a) In fulfilling its responsibilities,  
 30 the Eisenhower centennial commission shall consult, cooperate with and  
 31 seek advice from appropriate state departments and agencies, local public  
 32 bodies, learned societies, and historical, patriotic, philanthropic, civil, pro-  
 33 fessional and related organizations. State departments and agencies may  
 34 cooperate with the commission in planning, encouraging, developing and  
 35 coordinating appropriate commemorative activities.

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

40 (c) The state historical society and the state librarian shall cooperate  
 41 with the commission, especially in the development and display of exhibits  
 42 and collections and in the development of bibliographies, catalogs and  
 43 other materials relevant to the period of the life of Dwight D.

New Sec. 28. The provisions of sections 1 through 28, and amendments thereto, shall expire on and after July 1, 2013. The provisions of sections 1 through 28, and amendments thereto, shall be reviewed by the legislature prior to July 1, 2013.

1 Eisenhower.

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

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

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

13 (2) the director of the Kansas humanities council or the director's  
14 designee;

15 (3) the director of the Kansas arts commission or the director's  
16 designee;

17 (4) ~~the director of the division of travel and tourism development of~~  
18 ~~the department of commerce or the director's designee~~ *president of the*  
19 *Kansas tourism corporation or the president's designee*;

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

21 (6) fifteen members appointed by the governor as follows: (A) Six  
22 members of history faculties of universities under the supervision of the  
23 state board of regents; (B) six members of history faculties of community  
24 colleges or private colleges or universities in the state; (C) a representative  
25 of the travel industry association of Kansas; (D) a representative of the  
26 Kansas museums association; and (E) a representative of the territorial  
27 Kansas heritage alliance;

28 (7) two members appointed by the speaker of the house of  
29 representatives;

30 (8) two members appointed by the minority leader of the house of  
31 representatives;

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

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

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

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

38 Sec. 31. On and after January 1, 2009, K.S.A. 2007 Supp. 73-2404 is  
39 hereby amended to read as follows: 73-2404. (a) In fulfilling its respon-  
40 sibilities, the Kansas territorial sesquicentennial commission shall consult,  
41 cooperate with and seek advice from appropriate state agencies, local and  
42 public bodies, learned societies and historical, patriotic, philanthropic,  
43 civil, professional and related organizations. State agencies shall cooperate

1 with the commission in planning, encouraging, developing and coordi-  
2 nating appropriate commemorative activities.

3 (b) The chief executive officer of each state university shall cooperate  
4 with the commission, especially in the encouragement and coordination  
5 of scholarly works and presentations on the history, culture and political  
6 activities related to the territorial period in Kansas history.

7 (c) The state historical society and the state librarian shall cooperate  
8 with the commission, especially in the development and displays of ex-  
9 hibits and collections and in the development of bibliographies, catalogs  
10 and other materials relevant to the territorial period.

11 ~~(d) The division of travel and tourism development of the department~~  
12 ~~of commerce~~ *Kansas tourism corporation* shall cooperate with the com-  
13 mission in marketing to potential visitors to the state commemorative  
14 activities enabling visitors to experience the cultural heritage of Kansas.

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

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

25 (b) to coordinate the implementation of the strategy with all other  
26 state and local agencies and offices and state educational institutions  
27 which do research work, develop materials and programs, gather statistics;  
28 or which perform functions related to economic development; and such  
29 state and local agencies and offices and state educational institutions shall  
30 advise and cooperate with the department in the planning and accom-  
31 plishment of the purposes of this act;

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

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

42 (e) to conduct an effective business information service, keeping up  
43 to date information on such things as manufacturing industries, labor

1 supply and economic trends in employment, income, savings and pur-  
2 chasing power within the state, utilizing the services and information  
3 available from the division of the budget of the department of  
4 administration;

5 (f) to support a coordinated program of scientific and industrial re-  
6 search with the objective of developing additional uses of the state's nat-  
7 ural resources, agriculture, agricultural products, new and better indus-  
8 trial products and processes, and the best possible utilization of the raw  
9 materials in the state; and to coordinate this responsibility with the state  
10 educational institutions, with all state and federal agencies, and all public  
11 and private institutions within or outside the state, all in an effort to assist  
12 and encourage new industries or expansion of existing industries through  
13 basic research, applied research and new development;

14 (g) to maintain and keep current all available information regarding  
15 the industrial opportunities and possibilities of the state, including raw  
16 materials and by-products; power and water resources; transportation fa-  
17 cilities; available markets and the marketing limitations of the state; labor  
18 supply; banking and financing facilities; availability of industrial sites; and  
19 the advantages the state and its particular sections have as industrial lo-  
20 cations; and such information shall be used for the encouragement of new  
21 industries in the state and the expansion of existing industries within the  
22 state;

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

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

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

33 ~~(k) to encourage and promote the traveling public to visit this state  
34 by publicizing information as to the recreational, historic and natural ad-  
35 vantages of the state and its facilities for transient travel and to contract  
36 with organizations for the purpose of promoting tourism within the state;  
37 and the department may request other state agencies such as, but not  
38 limited to, the Kansas water office, the Kansas department of wildlife and  
39 parks and the department of transportation, for assistance and all such  
40 agencies shall coordinate information and their respective efforts with the  
41 department to most efficiently and economically carry out the purpose  
42 and intent of this subsection;~~

43 ~~(l) to participate in economic development and planning assistance~~

1 programs of the federal government to political subdivisions;  
2 ~~(m)~~ (l) to assist counties and cities in industrial development through  
3 the establishment of industrial development corporations, including site  
4 surveys, small business administration situations, and render such other  
5 similar assistance as may be required; and in those instances where it is  
6 deemed appropriate, to contract with and make a service charge to the  
7 county or city involved for such services rendered;  
8 ~~(n)~~ (m) to render assistance to private enterprise on planning prob-  
9 lems and site surveys upon request and shall make a reasonable service  
10 charge for such services rendered; and any moneys received for services  
11 rendered, as provided in this subsection, shall be deposited in the fund  
12 and expended therefrom, as provided in subsection ~~(o)~~ (n);  
13 ~~(o)~~ (n) to make agreements with other states and with the United  
14 States government, or its agencies, and to accept funds from the federal  
15 government, or its agencies, or any other source for research studies,  
16 investigation, planning and other purposes related to the duties of the  
17 department; and any funds so received shall be remitted to the state  
18 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
19 amendments thereto. Upon receipt of each such remittance, the state  
20 treasurer shall deposit the entire amount in the state treasury to the credit  
21 of a special revenue fund which is hereby created and shall be known as  
22 the "economic development fund" or used in accordance with or direc-  
23 tion of the contributing federal agencies; and expenditures from such  
24 fund may be made for any purpose in keeping with the responsibilities,  
25 functions and authority of the department; and warrants on such fund  
26 shall be drawn in the same manner as required of other state agencies  
27 upon vouchers signed by the secretary;  
28 ~~(p)~~ (o) to do other and further acts as shall be necessary and proper  
29 in fostering and promoting the industrial development and economic wel-  
30 fare of the state;  
31 ~~(q)~~ (p) to organize, or cause to be organized, an advisory board or  
32 boards representing interested groups, including industry, labor, agricul-  
33 ture, scientific research, the press, the professions, industrial associations,  
34 civic groups, etc.; and such board or boards shall advise with the depart-  
35 ment as to its work and the department shall, as far as practicable, co-  
36 operate with such board or boards, and secure the active aid thereof in  
37 the accomplishment of the aims and objectives of the department;  
38 ~~(r)~~ (q) to perform the duties imposed under the Kansas venture cap-  
39 ital company act;  
40 ~~(s)~~ (r) to serve as the central agency and clearinghouse to collect and  
41 disseminate ideas and information bearing on local planning problems;  
42 and, in so doing, the department, upon request of the board of county  
43 commissioners of any county or the governing body of any city in the

1 state, may make a study and report upon any planning problem of such  
2 county or city submitted to it;

3 (†) (s) to disseminate to the public information concerning economic  
4 development programs available in the state, regardless of whether such  
5 programs are administered by the department or some other agency and  
6 the department shall make available audio-visual and written materials  
7 describing the economic development programs to local chambers of  
8 commerce, economic development organizations, banks and public li-  
9 braries and shall take other measures as may be necessary to effectuate  
10 the purpose of this subsection; and

11 (†) (t) to perform the duties imposed under the individual develop-  
12 ment account program act, K.S.A. 2007 Supp. 74-50,201 through 74-  
13 50,208, and amendments thereto.

14 Sec. 33. ~~[K.S.A. 2007 Supp. 74-8734 is hereby amended to read as~~  
15 ~~follows: 74-8734. (a) The Kansas lottery may operate one lottery gaming~~  
16 ~~facility in each gaming zone.~~

17 ~~(b) Not more than 30 days after the effective date of this act the~~  
18 ~~lottery commission shall adopt and publish in the Kansas register the~~  
19 ~~procedure for receiving, considering and approving, proposed lottery~~  
20 ~~gaming facility management contracts. Such procedure shall include pro-~~  
21 ~~visions for review of competitive proposals within a gaming zone and the~~  
22 ~~date by which proposed lottery gaming facility management contracts~~  
23 ~~must be received by the lottery commission if they are to receive~~  
24 ~~consideration.~~

25 ~~(c) The lottery commission shall adopt standards to promote the in-~~  
26 ~~tegrity of the gaming and finances of lottery gaming facilities, which shall~~  
27 ~~apply to all management contracts, shall meet or exceed industry stan-~~  
28 ~~dards for monitoring and controlling the gaming and finances of gaming~~  
29 ~~facilities and shall give the executive director sufficient authority to mon-~~  
30 ~~itor and control the gaming operation and to ensure its integrity and~~  
31 ~~security.~~

32 ~~(d) The Kansas lottery commission may approve management con-~~  
33 ~~tracts with one or more prospective lottery gaming facility managers to~~  
34 ~~manage, or construct and manage, on behalf of the state of Kansas and~~  
35 ~~subject to the operational control of the Kansas lottery, a lottery gaming~~  
36 ~~facility or lottery gaming enterprise at specified destination locations~~  
37 ~~within the northeast, south central, southwest and southeast Kansas gam-~~  
38 ~~ing zones where the commission determines the operation of such facility~~  
39 ~~would promote tourism and economic development. The commission~~  
40 ~~shall approve or disapprove a proposed management contract within 90~~  
41 ~~days after the deadline for receipt of proposals established pursuant to~~  
42 ~~subsection (b).~~

43 ~~(e) In determining whether to approve a management contract with~~

1 a prospective lottery gaming facility manager to manage a lottery gaming  
2 facility or lottery gaming enterprise pursuant to this section, the com-  
3 mission shall take into consideration the following factors: The size of the  
4 proposed facility; the geographic area in which such facility is to be lo-  
5 cated; the proposed facility's location as a tourist and entertainment des-  
6 tination; the estimated number of tourists that would be attracted by the  
7 proposed facility; the number and type of lottery facility games to be  
8 operated at the proposed facility; and agreements related to ancillary lot-  
9 tery gaming facility operations.

10 (f) Subject to the requirements of this section, the commission shall  
11 approve at least one proposed lottery gaming facility management con-  
12 tract for a lottery gaming facility in each gaming zone.

13 (g) The commission shall not approve a management contract unless:

14 (1) (A) The prospective lottery gaming facility manager is a resident  
15 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access  
16 to financial resources to support the activities required of a lottery gaming  
17 facility manager under the Kansas expanded lottery act, and (ii) has three  
18 consecutive years' experience in the management of gaming which would  
19 be class III gaming, as defined in K.S.A. 46-2301, and amendments  
20 thereto, operated pursuant to state or federal law; or

21 (B) the prospective lottery gaming facility manager is not a resident  
22 Kansas American Indian tribe and, at a minimum: (i) Has sufficient access  
23 to financial resources to support the activities required of a lottery gaming  
24 facility manager under the Kansas expanded lottery act; (ii) is current in  
25 filing all applicable tax returns and in payment of all taxes, interest and  
26 penalties owed to the state of Kansas and any taxing subdivision where  
27 such prospective manager is located in the state of Kansas, excluding  
28 items under formal appeal pursuant to applicable statutes; and (iii) has  
29 three consecutive years' experience in the management of gaming which  
30 would be class III gaming, as defined in K.S.A. 46-2301, and amendments  
31 thereto, operated pursuant to state or federal law; and

32 (2) the commission determines that the proposed development con-  
33 sists of an investment in infrastructure, including ancillary lottery gaming  
34 facility operations, of at least \$225,000,000 in the northeast, southeast and  
35 south-central Kansas gaming zones and \$50,000,000 in the southwest  
36 Kansas gaming zone. The commission, in determining whether the min-  
37 imum investment required by this subsection is met, shall not include  
38 any amounts derived from or financed by state or local retailers' sales tax  
39 revenues.

40 (h) Any management contract approved by the commission under  
41 this section shall:

42 (1) Have a maximum initial term of 15 years from the date of opening  
43 of the lottery gaming facility. At the end of the initial term, the contract



- 1 may be renewed by mutual consent of the state and the lottery gaming  
2 facility manager;
- 3 (2) specify the total amount to be paid to the lottery gaming facility  
4 manager pursuant to the contract;
- 5 (3) establish a mechanism to facilitate payment of lottery gaming fa-  
6 cility expenses, payment of the lottery gaming facility manager's share of  
7 the lottery gaming facility revenues and distribution of the state's share  
8 of the lottery gaming facility revenues;
- 9 (4) include a provision for the lottery gaming facility manager to pay  
10 the costs of oversight and regulation of the lottery gaming facility manager  
11 and the operations of the lottery gaming facility by the Kansas racing and  
12 gaming commission;
- 13 (5) establish the types of lottery facility games to be installed in such  
14 facility;
- 15 (6) provide for the prospective lottery gaming facility manager, upon  
16 approval of the proposed lottery gaming facility management contract, to  
17 pay to the state treasurer a privilege fee of \$25,000,000 for the privilege  
18 of being selected as a lottery gaming facility manager of a lottery gaming  
19 facility in the northeast, southeast or south-central Kansas gaming zone  
20 and \$5,500,000 for the privilege of being selected as a lottery gaming  
21 facility manager of a lottery gaming facility in the southwest Kansas gam-  
22 ing zone. Such fee shall be deposited in the state treasury and credited  
23 to the lottery gaming facility manager fund, which is hereby created in  
24 the state treasury;
- 25 (7) incorporate terms and conditions for the ancillary lottery gaming  
26 facility operations;
- 27 (8) designate as key employees, subject to approval of the executive  
28 director, any employees or contractors providing services or functions  
29 which are related to lottery facility games authorized by a management  
30 contract;
- 31 (9) include financing commitments for construction;
- 32 (10) include a resolution of endorsement from the city governing  
33 body, if the proposed facility is within the corporate limits of a city, or  
34 from the county commission, if the proposed facility is located in the  
35 unincorporated area of the county;
- 36 (11) include a requirement that any parimutuel licensee developing  
37 a lottery gaming facility pursuant to this act comply with all orders and  
38 rules and regulations of the Kansas racing and gaming commission with  
39 regard to the conduct of live racing, including the same minimum days  
40 of racing as specified in K.S.A. 2007 Supp. 74-8746, and amendments  
41 thereto, for operation of electronic gaming machines at racetrack gaming  
42 facilities;
- 43 (12) include a provision for the state to receive not less than 22% of

1 ~~lottery gaming facility revenues, which shall be paid to the expanded~~  
2 ~~lottery act revenues fund established by K.S.A. 2007 Supp. 74 8768, and~~  
3 ~~amendments thereto;~~

4 ~~(13) include a provision for 2% of lottery gaming facility revenues to~~  
5 ~~be paid to the problem gambling and addictions grant fund established~~  
6 ~~by K.S.A. 2007 Supp. 79 4805, and amendments thereto;~~

7 ~~(14) include a provision for 3% of lottery gaming facility revenues to~~  
8 ~~be paid to the travel and tourism development fund established by section~~  
9 ~~15, and amendments thereto.~~

10 ~~(15) if the prospective lottery gaming facility manager is an American~~  
11 ~~Indian tribe, include a provision that such tribe agrees to waive its sov-~~  
12 ~~ereign immunity with respect to any actions arising from or to enforce~~  
13 ~~either the Kansas expanded lottery act or any provision of the lottery~~  
14 ~~gaming facility management contract; any action brought by an injured~~  
15 ~~patron or by the state of Kansas; any action for purposes of enforcing the~~  
16 ~~workers compensation act or any other employment or labor law; and any~~  
17 ~~action to enforce laws, rules and regulations and codes pertaining to~~  
18 ~~health, safety and consumer protection; and for any other purpose~~  
19 ~~deemed necessary by the executive director to protect patrons or em-~~  
20 ~~ployees and promote fair competition between the tribe and others seek-~~  
21 ~~ing a lottery gaming facility management contract;~~

22 ~~(15) (16) (A) if the lottery gaming facility is located in the northeast~~  
23 ~~or southwest Kansas gaming zone and is not located within a city, include~~  
24 ~~a provision for payment of an amount equal to 3% of the lottery gaming~~  
25 ~~facility revenues to the county in which the lottery gaming facility is lo-~~  
26 ~~cated; or (B) if the lottery gaming facility is located in the northeast or~~  
27 ~~southwest Kansas gaming zone and is located within a city, include pro-~~  
28 ~~vision for payment of an amount equal to 1.5% of the lottery gaming~~  
29 ~~facility revenues to the city in which the lottery gaming facility is located~~  
30 ~~and an amount equal to 1.5% of such revenues to the county in which~~  
31 ~~such facility is located;~~

32 ~~(16) (17) (A) if the lottery gaming facility is located in the southeast~~  
33 ~~or south central Kansas gaming zone and is not located within a city,~~  
34 ~~include a provision for payment of an amount equal to 2% of the lottery~~  
35 ~~gaming facility revenues to the county in which the lottery gaming facility~~  
36 ~~is located and an amount equal to 1% of such revenues to the other county~~  
37 ~~in such zone; or (B) if the lottery gaming facility is located in the southeast~~  
38 ~~or south central Kansas gaming zone and is located within a city, provide~~  
39 ~~for payment of an amount equal to 1% of the lottery gaming facility~~  
40 ~~revenues to the city in which the lottery gaming facility is located, an~~  
41 ~~amount equal to 1% of such revenues to the county in which such facility~~  
42 ~~is located and an amount equal to 1% of such revenues to the other county~~  
43 ~~in such zone;~~

1 ~~(17) (18) allow the lottery gaming facility manager to manage the~~  
2 ~~lottery gaming facility in a manner consistent with this act and applicable~~  
3 ~~law, but shall place full, complete and ultimate ownership and operational~~  
4 ~~control of the gaming operation of the lottery gaming facility with the~~  
5 ~~Kansas lottery. The Kansas lottery shall not delegate and shall explicitly~~  
6 ~~retain the power to overrule any action of the lottery gaming facility man-~~  
7 ~~ager affecting the gaming operation without prior notice. The Kansas~~  
8 ~~lottery shall retain full control over all decisions concerning lottery gaming~~  
9 ~~facility games;~~

10 ~~(18) (19) include provisions for the Kansas racing and gaming com-~~  
11 ~~mission to oversee all lottery gaming facility operations, including, but not~~  
12 ~~limited to: Oversight of internal controls; oversight of security of facilities;~~  
13 ~~performance of background investigations; determination of qualifica-~~  
14 ~~tions and credentialing of employees, contractors and agents of the lottery~~  
15 ~~gaming facility manager and of ancillary lottery gaming facility operations;~~  
16 ~~as determined by the Kansas racing and gaming commission; auditing of~~  
17 ~~lottery gaming facility revenues; enforcement of all state laws and main-~~  
18 ~~tenance of the integrity of gaming operations; and~~

19 ~~(19) (20) include enforceable provisions: (A) Prohibiting the state,~~  
20 ~~until July 1, 2032, from (i) entering into management contracts for more~~  
21 ~~than four lottery gaming facilities or similar gaming facilities, one to be~~  
22 ~~located in the northeast Kansas gaming zone, one to be located in the~~  
23 ~~south central Kansas gaming zone, one to be located in the southwest~~  
24 ~~Kansas gaming zone and one to be located in the southeast Kansas gaming~~  
25 ~~zone; (ii) designating additional areas of the state where operation of~~  
26 ~~lottery gaming facilities or similar gaming facilities would be authorized~~  
27 ~~or (iii) operating an aggregate of more than 2,800 electronic gaming ma-~~  
28 ~~chines at all parimutuel licensee locations; and (B) requiring the state to~~  
29 ~~repay to the lottery gaming facility manager an amount equal to the priv-~~  
30 ~~ilege fee paid by such lottery gaming facility manager, plus interest on~~  
31 ~~such amount, compounded annually at the rate of 10%, if the state violates~~  
32 ~~the prohibition provision described in (A).~~

33 ~~(i) The power of eminent domain shall not be used to acquire any~~  
34 ~~interest in real property for use in a lottery gaming enterprise.~~

35 ~~(j) Any proposed management contract for which the privilege fee~~  
36 ~~has not been paid to the state treasurer within 30 days after the date of~~  
37 ~~approval of the management contract shall be null and void.~~

38 ~~(k) A person who is the manager of the racetrack gaming facility in a~~  
39 ~~gaming zone shall not be eligible to be the manager of the lottery gaming~~  
40 ~~facility in the same zone.~~

41 ~~(l) Management contracts authorized by this section may include pro-~~  
42 ~~visions relating to:~~

43 ~~(1) Accounting procedures to determine the lottery gaming facility~~

1 revenues, unclaimed prizes and credits;

2 ~~(2) minimum requirements for a lottery gaming facility manager to~~  
3 ~~provide qualified oversight, security and supervision of the lottery facility~~  
4 ~~games including the use of qualified personnel with experience in appli-~~  
5 ~~able technology;~~

6 ~~(3) eligibility requirements for employees, contractors or agents of a~~  
7 ~~lottery gaming facility manager who will have responsibility for or involve-~~  
8 ~~ment with actual gaming activities or for the handling of cash or tokens;~~

9 ~~(4) background investigations to be performed by the Kansas racing~~  
10 ~~and gaming commission;~~

11 ~~(5) credentialing requirements for any employee, contractor or agent~~  
12 ~~of the lottery gaming facility manager or of any ancillary lottery gaming~~  
13 ~~facility operation as provided by the Kansas expanded lottery act or rules~~  
14 ~~and regulations adopted pursuant thereto;~~

15 ~~(6) provision for termination of the management contract by either~~  
16 ~~party for cause; and~~

17 ~~(7) any other provision deemed necessary by the parties, including~~  
18 ~~such other terms and restrictions as necessary to conduct any lottery fa-~~  
19 ~~cility game in a legal and fair manner.~~

20 ~~(m) A management contract shall not constitute property, nor shall~~  
21 ~~it be subject to attachment, garnishment or execution, nor shall it be~~  
22 ~~alienable or transferable, except upon approval by the executive director,~~  
23 ~~nor shall it be subject to being encumbered or hypothecated. The trustee~~  
24 ~~of any insolvent or bankrupt lottery gaming facility manager may continue~~  
25 ~~to operate pursuant to the management contract under order of the ap-~~  
26 ~~propriate court for no longer than one year after the bankruptcy or in-~~  
27 ~~solveney of such manager.~~

28 ~~(n) (1) The Kansas lottery shall be the licensee and owner of all soft-~~  
29 ~~ware programs used at a lottery gaming facility for any lottery facility~~  
30 ~~game.~~

31 ~~(2) A lottery gaming facility manager, on behalf of the state, shall~~  
32 ~~purchase or lease for the Kansas lottery all lottery facility games. All lot-~~  
33 ~~tery facility games shall be subject to the ultimate control of the Kansas~~  
34 ~~lottery in accordance with this act.~~

35 ~~(o) A lottery gaming facility shall comply with any planning and zon-~~  
36 ~~ing regulations of the city or county in which it is to be located. The~~  
37 ~~executive director shall not contract with any prospective lottery gaming~~  
38 ~~facility manager for the operation and management of such lottery gaming~~  
39 ~~facility unless such manager first receives any necessary approval under~~  
40 ~~planning and zoning requirements of the city or county in which it is to~~  
41 ~~be located.~~

42 ~~(p) Prior to expiration of the term of a lottery gaming facility man-~~  
43 ~~agement contract, the lottery commission may negotiate a new lottery~~

1 gaming facility management contract with the lottery gaming facility man-  
 2 ager if the new contract is substantially the same as the existing contract.  
 3 Otherwise, the lottery gaming facility review board shall be reconstituted  
 4 and a new lottery gaming facility management contract shall be negotiated  
 5 and approved in the manner provided by this act.]

K.S.A. 2007 Supp. 74-8768 is hereby amended to read as follows:  
 (see attached)

6 ~~[Sec. 34. K.S.A. 75-2935b is hereby amended to read as follows: 75-~~  
 7 ~~2935b. Salaries and other compensation of all persons who are within the~~  
 8 ~~unclassified service of the Kansas civil service act, and which salaries and~~  
 9 ~~other compensation are not fixed by statute, shall be subject to the ap-~~  
 10 ~~proval of the governor and such salaries or other compensation shall not~~  
 11 ~~be paid until approved by the governor. The provisions of this section~~  
 12 ~~shall not apply to the salaries and other compensation of any officer or~~  
 13 ~~employee when such salary or other compensation is specifically pre-~~  
 14 ~~scribed by law, nor to officers and employees of elected state officials,~~  
 15 ~~officers and employees under the jurisdiction of the state board of re-~~  
 16 ~~gents, the executive secretary and other employees of the Kansas public~~  
 17 ~~employees retirement system that are in the unclassified service as spec-~~  
 18 ~~ified under K.S.A. 74-1908 and amendments thereto, officers and em-~~  
 19 ~~ployees of Kansas, Inc. and, the Kansas technology enterprise corporation~~  
 20 ~~and the Kansas tourism corporation, officers and employees under the~~  
 21 ~~jurisdiction of the supreme court, legislative officers and employees or~~  
 22 ~~officers and employees of any agency performing functions and duties~~  
 23 ~~primarily for the legislative branch.]~~

Renumber remaining sections accordingly

74-8768 is

24 Sec. 35. ~~[K.S.A. 75-2935b and]~~ K.S.A. 2007 Supp. 74-8734 are hereby  
 25 repealed.

26 Sec. 36. On and after January 1, 2009, K.S.A. 73-2103, 74-5032, 74-  
 27 5032a and 74-5090 and K.S.A. 2007 Supp. 73-2402, 73-2404, 74-5005,  
 28 74-5089, 74-5091, 74-9001, 74-9002, 74-9003, 74-9004 and 74-9005 are  
 29 hereby repealed.

30 Sec. 37. This act shall take effect and be in force from and after its  
 31 publication in the statute book.

K.S.A. 2007 Supp. 74-8768. (a) There is hereby created the expanded lottery act revenues fund in the state treasury. All expenditures and transfers from such fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be expended or transferred only for the purposes of *the Kansas tourism corporation as provided by subsection (b)*, reduction of state debt, state infrastructure improvements and reduction of local ad valorem tax in the same manner as provided for allocation of amounts in the local ad valorem tax reduction fund.

*(b) On July 15, 2008, and on or before the 15th day of each calendar month thereafter, the director of accounts and reports shall transfer from the expanded lottery act revenues fund to the travel and tourism development fund, established by section 15, and amendments thereto, an amount equal to 3% of all moneys credited to the expanded lottery act revenues fund during the preceding month. Moneys transferred pursuant to this subsection shall be used only as provided in sections 1 through 28, and amendments thereto.*