

CHAPTER 180

HOUSE BILL No. 2949

(Amends Chapters 24, 37, 48, 51, 60, 67, 72, 82, 85, 87,
91, 95, 101, 110, 117, 118 and 123)

AN ACT reconciling amendments to certain statutes; amending K.S.A. 2003 Supp. 8-170, 22-2401a, 72-6431, 74-5602, 74-8017, 79-213, 79-3271, 79-3425c, K.S.A. 2003 Supp. 2-1205, as amended by section 1 of 2004 House Bill No. 2622, K.S.A. 8-1102, as amended by section 1 of 2004 Substitute for Senate Bill No. 380, K.S.A. 2003 Supp. 19-101a, as amended by section 20 of 2004 House Substitute for Substitute for Senate Bill No. 153, K.S.A. 2003 Supp. 58-3062, as amended by section 1 of 2004 Senate Bill No. 534, K.S.A. 2003 Supp. 60-2001, as amended by section 6 of 2004 House Bill No. 2293, K.S.A. 65-468, as amended by section 1 of 2004 House Bill No. 2760, K.S.A. 2003 Supp. 65-2891, as amended by section 5 of 2004 House Bill No. 2813, K.S.A. 2003 Supp. 83-302, as amended by section 20 of 2004 House Bill No. 2622, and K.S.A. 2003 Supp. 83-402, as amended by section 21 of 2004 House Bill No. 2622, and repealing the existing sections; also repealing K.S.A. 2003 Supp. 8-170a, 72-6431b, 72-6431c, 74-4911h, 74-8017a, 79-201y, 79-213c, 79-2977a, 79-3271a, 79-3271b, K.S.A. 2003 Supp. 2-1205, as amended by section 188 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 2-2906, as amended by section 57 of 2004 Senate Bill No. 524, K.S.A. 8-1102, as amended by section 1 of 2004 House Bill No. 2633, K.S.A. 2003 Supp. 19-101a, as amended by section 5 of 2004 Senate Bill No. 461, K.S.A. 2003 Supp. 22-2401a, as amended by section 1 of 2004 House Substitute for Senate Bill No. 9, K.S.A. 2003 Supp. 22-2401a, as amended by section 6 of 2004 House Substitute for Senate Bill No. 136, K.S.A. 2003 Supp. 58-3062, as amended by section 3 of 2004 Senate Bill No. 404, K.S.A. 2003 Supp. 60-2001, as amended by section 5 of 2004 Senate Bill No. 297, K.S.A. 65-468, as amended by section 3 of 2004 House Bill No. 2813, K.S.A. 2003 Supp. 65-2891, as amended by section 11 of 2004 House Bill No. 2737, K.S.A. 2003 Supp. 74-5602, as amended by section 8 of 2004 House Substitute for Senate Bill No. 136, K.S.A. 2003 Supp. 74-5602, as amended by section 1 of 2004 Senate Bill No. 400, K.S.A. 2003 Supp. 79-3425c, as amended by section 174 of 2004 House Bill No. 2675, K.S.A. 2003 Supp. 79-3425c, as amended by section 134 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 79-34,147, as amended by section 176 of 2004 House Bill No. 2675, K.S.A. 82a-734, as amended by section 145 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 83-302, as amended by section 186 of 2004 Senate Bill No. 524, and K.S.A. 2003 Supp. 83-402, as amended by section 187 of 2004 Senate Bill No. 524.

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

Section 1. K.S.A. 2003 Supp. 2-1205, as amended by section 1 of 2004 House Bill No. 2622, is hereby amended to read as follows: 2-1205. An inspection fee shall be collected upon all commercial fertilizers sold, offered or exposed for sale, or distributed in Kansas, which shall be at a rate per ton of 2,000 pounds fixed by rules and regulations adopted by the secretary of agriculture, except that such rate shall not exceed \$1.67 per ton of 2,000 pounds. The secretary of agriculture may adopt rules and regulations establishing the inspection fee rate under this section. Each person registering any commercial fertilizer shall pay the inspection fee on such commercial fertilizer sold, offered or exposed for sale, or distributed in Kansas. Each such person shall keep adequate records showing the tonnage of each commercial fertilizer shipped to or sold, offered or exposed for sale, or distributed in Kansas. The secretary, and duly authorized representatives of the secretary, shall have authority to examine such records and other pertinent records necessary to verify the statement of tonnage.

Each person registering any commercial fertilizer shall file an affidavit semiannually, with the secretary, within 30 days after each January 1 and each July 1, showing the tonnage of commercial fertilizer sold or distributed in Kansas for the preceding six-month period. Each such person shall pay to the secretary the inspection fee due for such six-month period, except that the registrant shall not be required to pay the inspection fee or report the tonnage of commercial fertilizers or fertilizer materials sold and shipped directly to fertilizer manufacturers or mixers. The fertilizer manufacturers or mixers shall keep adequate records of the commercial fertilizers sold or distributed in this state, and report to the secretary the tonnage and pay the inspection fee due. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or if the report of tonnage is false, the secretary may revoke the registrations filed by such person. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or any extension thereof granted by the secretary, a penalty of \$5 per day, or commencing on July 1, 2002, and ending on June 30, 2010, a penalty of \$10 per day shall be assessed against the registrant and the inspection fee and penalty shall constitute a debt and become the basis for a judgment against such person. The secretary may grant a reasonable extension of time.

The secretary of ~~the department of~~ agriculture is hereby authorized and empowered to reduce the inspection fee by adopting rules and regulations under this section whenever the secretary determines that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act as listed below and the plant pest act. The secretary is hereby authorized and empowered to increase the inspection fee by adopting rules and regulations under this section when it finds that such is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, except that the inspection fee shall not be increased in excess of the maximum fee prescribed by this section. The secretary shall remit all moneys received by or for the secretary under article 12 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such remittance as follows: (1) An amount equal to \$1.40 per ton shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; (2) an amount equal to \$.04 per ton shall be credited to the fertilizer research fund; (3) commencing July 1, 2002, and ending on June 30, 2010, an amount equal to \$.05 per ton shall be credited to the fertilizer and pesticide compliance and administration fund; and (4) the remainder shall be credited to the fertilizer fee fund. All expenditures from the fertilizer fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~the department of~~ agriculture or by a person or persons designated by the secretary.

Sec. 2. K.S.A. 2003 Supp. 8-170 is hereby amended to read as follows: 8-170. (a) Upon the transfer of ownership of any vehicle registered under the foregoing provisions of this act, its registration and right to use the license plates thereon shall expire and thereafter there shall be no transfer of any registration, and the license plates shall be removed by the owner thereof and it shall be unlawful for any person other than the person to whom such license plates were originally issued to have the same in possession. In case of a transfer of ownership of a registered vehicle the original owner of the license plates may register another antique vehicle under the same license plate designation, upon application therefor and the payment of a fee of \$1.50. On and after January 1, 2000, any model year license plate transferred shall comply with the provisions of subsection (c) of K.S.A. 8-172, and amendments thereto.

(b) Upon the transfer and sale of a registered vehicle by any person, the new owner thereof, before using a vehicle on the highways of this state, shall make application to the division for registration of the vehicle.

(c) Certificate of title:

(1) Application for certificate of title on an antique vehicle shall be made by the owner or the owner's agent upon a blank form to be furnished by the division and shall contain such information as the division shall determine necessary. The division may waive any information requested on the form if it is not available. For any antique vehicle having a model year prior to 1950, the application together with a bill of sale for the antique vehicle shall be accepted as prima facie evidence that the applicant is the owner of the vehicle and the certificate of title shall be issued for such vehicle. If the application and bill of sale are used to obtain a certificate of title for any antique vehicle having a model year of 1950 or later, the certificate of title shall not be issued until an inspection in accordance with subsection (a) of K.S.A. 8-116, and amendments thereto, has been completed. The certificate of title shall be delivered to the applicant. The certificate shall contain the words "antique vehicle."

(2) The certificate of title shall contain upon the reverse side a form for assignment of title to be executed by the owner ~~before a notary public or some other officer authorized to administer an oath~~. A certificate of title may be issued under the provisions of this act without an application for registration.

(3) The fee for each original certificate of title so issued shall be \$10. The certificate of title shall be good for the life of the antique vehicle, so long as the same is owned or held by the original holder of the certificate of title, and shall not have to be renewed. In the event of a sale or transfer of ownership of an antique vehicle for which a certificate of title has been issued under the provisions of this subsection, the holder of such certifi-

icate of title shall endorse on the same an assignment thereof, with warranty of title in form printed thereon, as prescribed by the director, and the transferor must deliver the same to the buyer at the time of delivery of the vehicle. The buyer shall then present such certificate of title, assigned as aforesaid, to the director or an authorized agent of the director, whereupon a new certificate of title shall be issued to the buyer, the fee therefor being \$10.

Sec. 3. K.S.A. 8-1102, as amended by section 1 of 2004 Substitute for Senate Bill No. 380, is hereby amended to read as follows: 8-1102.

(a) (1) A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the public agency having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle.

(2) Any motor vehicle which has been impounded as provided in this section for 30 days or more shall be disposed of in the following manner: If such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with the division, the public agency shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, that it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection.

After 15 days from date of mailing notice, the public agency shall publish a notice once a week for two consecutive weeks in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, serial number, and owner, if known, and stating that it has been impounded by the public agency and that it will be sold at public auction to the highest bidder for cash if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the public agency. If the motor vehicle does not display a registration plate issued by the division of vehicles and is not registered with the division, the public agency after 30 days from the date of impoundment, shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles no more than 30 days after such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection. After 15 days from the date of mailing notice, the public agency shall publish a notice in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state that it has been impounded by said public agency and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges incurred by the public agency.

When any public agency has complied with the provisions of this section with respect to an abandoned motor vehicle and the owner thereof does not claim it within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the public agency on such motor vehicle, the public agency may sell the motor vehicle at public auction to the highest bidder for cash.

(3) After any sale pursuant to this section, the purchaser may file proof thereof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of such motor vehicle. All moneys derived from the sale of motor vehicles pursuant to this section, after payment of the expenses of the impoundment and sale, shall be paid into the fund of the public agency which is used by it for the construction or maintenance of highways.

(b) Any person who abandons and leaves a vehicle on real property, other than public property or property open to use by the public, which is not owned or leased by such person or by the owner or lessee of such vehicle shall be guilty of criminal trespass, as defined by K.S.A. 21-3721, and amendments thereto, and upon request of the owner or occupant of such real property, the public agency in whose jurisdiction such property is situated may remove and dispose of such vehicle in the manner provided in subsection (a), except that the provisions of subsection (a) requiring that a motor vehicle be abandoned for a period of time in excess of 48 hours prior to its removal shall not be applicable to abandoned vehicles which are subject to the provisions of this subsection. Any person removing such vehicle from the real property at the request of such public agency shall have a possessory lien on such vehicle for the costs incurred in removing, towing and storing such vehicle.

(c) Whenever any motor vehicle has been left unattended for more than 48 hours or when any unattended motor vehicle interferes with public highway operations, any law enforcement officer is hereby authorized to move such vehicle or cause to have the vehicle moved as provided in K.S.A. 8-1103 *et seq.*, and amendments thereto.

(d) The notice provisions of this section shall apply to any motor vehicle which has been impounded as provided in K.S.A. 8-1567, and amendments thereto.

(e) *Any person attempting to recover a motor vehicle impounded as provided in this section or in accordance with a city ordinance or county resolution providing for the impoundment of motor vehicles, shall show proof of valid registration and ownership of the motor vehicle to the public agency before obtaining the motor vehicle. In addition, the public agency may require payment of all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to release of the motor vehicle.*

Sec. 4. K.S.A. 2003 Supp. 19-101a, as amended by section 20 of House Substitute for Substitute for Senate Bill No. 153, is hereby amended to read as follows: 19-101a. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271—74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2005.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199 or K.S.A. 2003 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2003 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(33) Counties may not exempt from or effect changes in the wireless enhanced 911 act or in the provisions of K.S.A. 12-5301 through 12-5308, and amendments thereto.

(34) *Counties may not exempt from or effect changes in section 4 of 2004 Senate Bill No. 461, and amendments thereto.*

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

Sec. 5. K.S.A. 2003 Supp. 22-2401a is hereby amended to read as follows: 22-2401a. (1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise their powers as law enforcement officers:

(a) Anywhere within their county; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(2) Law enforcement officers employed by any city may exercise their powers as law enforcement officers:

(a) Anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(3) (a) *Law enforcement officers employed by a Native American Indian Tribe may exercise powers of law enforcement officers anywhere within the exterior limits of the reservation of the tribe employing such tribal law enforcement officer, subject to the following:*

(i) *The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has entered into a valid and binding agreement with an insurance carrier to provide liability insurance coverage for damages assessed in state or federal court and arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section. Such insurance policy shall be in an amount not less than \$500,000 for any one person and \$2,000,000 for any one occurrence for personal injury and \$1,000,000 for any one occurrence for property damage and shall carry an endorsement to provide coverage for mutual aid assistance. Such insurance policy shall be subject to verification by the attorney general. Such insurance policy shall include an endorsement providing that the insurer may not invoke tribal sovereign immunity up to the limits of the policy set forth herein.*

(ii) *The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has filed with the county clerk a map clearly showing the boundaries of the Tribe's reservation as defined in this section.*

(b) *If a claim is brought against any tribal law enforcement agency or officer for acts committed by such agency or officer while acting pursuant to this section, such claim shall be subject to disposition as if the tribe was the state pursuant to the Kansas tort claims act, provided that such act shall not govern the tribe's purchase of insurance. The tribe shall waive its sovereign immunity solely to the extent necessary to permit recovery under the liability insurance, but not to exceed the policy limits.*

(c) *Nothing in this subsection (3) shall be construed to prohibit any agreement between any state, county or city law enforcement agency and*

any Native American Indian Tribe.

(d) Nothing in this subsection (3) shall be construed to affect the provision of law enforcement services outside the exterior boundaries of reservations so as to affect in any way the criteria by which the United States department of the interior makes a determination regarding placement of land into trust.

(e) Neither the state nor any political subdivision of the state shall be liable for any act or failure to act by any tribal law enforcement officer.

~~(3)~~ (4) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers anywhere:

(a) On property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university;

(b) on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university;

(c) within the city where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect; and

(d) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in ~~subsection (3)(a) or (b)~~ subsection (4)(a) or (b), such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.

~~(4)~~ (5) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise their powers as law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

~~(5)~~ (6) In addition to the areas where university police officers may exercise their powers pursuant to subsection ~~(3)~~ (4), university police officers may exercise the powers of law enforcement officers in any area outside their normal jurisdiction when a request for assistance has been made by law enforcement officers from the area for which assistance is requested.

~~(6)~~ (7) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson county may exercise their powers as law enforcement officers in any adjoining city within Johnson county when any crime, including a traffic infraction, has been or is being committed by a person in view of the law enforcement officer. A law enforcement officer shall be considered to be exercising such officer's powers pursuant to subsection (2), when such officer is responding to the scene of a crime, even if such officer exits the city limits of the city employing the officer and further reenters the city limits of the city employing the officer to respond to such scene.

(8) Campus police officers employed by a community college or school district may exercise the power and authority of law enforcement officers anywhere:

(a) On property owned, occupied or operated by the school district

or community college or at the site of a function sponsored by the school district or community college;

(b) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (8)(a);

(c) within the city or county where property described in subsection (8)(a) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(d) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (8)(a) or (8)(b) is located, when there is reason to believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(e) when in fresh pursuit of a person; and

(f) when transporting persons in custody to an appropriate facility, wherever it may be located.

~~(7)~~ (9) As used in this section:

(a) “Law enforcement officer” ~~has the meaning ascribed thereto~~ means: (1) Any law enforcement officer as defined in K.S.A. 22-2202, and amendments thereto; or (2) any tribal law enforcement officer who is employed by a Native American Indian Tribe and has completed successfully the initial and any subsequent law enforcement training required under the Kansas law enforcement training act.

(b) “University police officers officer” means ~~university police officers~~ a police officer employed by the chief executive officer of: (1) Any state educational institution under the control and supervision of the state board of regents; or (2) a municipal university.

(c) “Campus police officer” means a school security officer designated as a campus police officer pursuant to K.S.A. 72-8222, and amendments thereto.

~~(e)~~ (d) “Fresh pursuit” means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

(e) “Native American Indian Tribe” means the Prairie Band Potawatomi Nation, Kickapoo Tribe in Kansas, Sac and Fox Nation of Missouri and the Iowa Tribe of Kansas and Nebraska.

(f) “Reservation” means:

(i) With respect to the Iowa Tribe of Kansas and Nebraska, the reservation established by treaties with the United States concluded May 17, 1854, and March 6, 1861;

(ii) with respect to the Kickapoo Nation, the reservation established by treaty with the United States concluded June 28, 1862;

(iii) with respect to the Prairie Band Potawatomi Nation in Kansas, the reservation established by treaties with the United States concluded June 5, 1846, November 15, 1861, and February 27, 1867; and

(iv) with respect to the Sac and Fox Nation of Missouri in Kansas and Nebraska: (A) the reservation established by treaties with the United States concluded May 18, 1854, and March 6, 1861, and by acts of Congress of June 10, 1872 (17 Stat. 391), and August 15, 1876 (19 Stat. 208), and (B) the premises of the gaming facility established pursuant to the gaming compact entered into between such nation and the state of Kansas, and the surrounding parcel of land held in trust which lies adjacent to and east of U.S. Highway 75 and adjacent to and north of Kansas Highway 20, as identified in such compact.

(10) The provisions of subsection (3) and subsections (9)(a)(2), (9)(d) and (9)(e) shall expire on July 1, 2009.

Sec. 6. K.S.A. 2003 Supp. 58-3062, as amended by section 1 of 2004 Senate Bill No. 534, is hereby amended to read as follows: 58-3062. (a) No licensee, whether acting as an agent, *transaction broker* or a principal, shall:

(1) Intentionally use advertising that is misleading or inaccurate in

any material particular or that in any way misrepresents any property, terms, values, policies or services of the business conducted, or uses the trade name, collective membership mark, service mark or logo of any organization owning such name, mark or logo without being authorized to do so.

(2) Fail to account for and remit any money which comes into the licensee's possession and which belongs to others.

(3) Misappropriate moneys required to be deposited in a trust account pursuant to K.S.A. 58-3061, and amendments thereto, convert such moneys to the licensee's personal use or commingle the money or other property of the licensee's principals with the licensee's own money or property, except that nothing herein shall prohibit a broker from having funds in an amount not to exceed \$100 in the broker's trust account to pay expenses for the use and maintenance of such account.

(4) Accept, give or charge any rebate or undisclosed commission.

(5) Pay a referral fee to a person who is properly licensed as a broker or salesperson in *Kansas* or another jurisdiction or who holds a corporate real estate license in another jurisdiction if the licensee knows that the payment of the referral fee will result in the payment of a rebate by the *Kansas* or out-of-state licensee.

(6) Represent or attempt to represent a broker without the broker's express knowledge and consent.

(7) Guarantee or authorize any person to guarantee future profits that may result from the resale of real property.

(8) Place a sign on any property offering it for sale or lease without the written consent of the owner or the owner's authorized agent.

(9) Offer real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent.

(10) Induce any party to break any contract of sale or lease.

(11) ~~Offer or give prizes, gifts or gratuities which are contingent upon an agency agreement or the sale, purchase or lease of real estate. Products or services which are offered or given pursuant to a licensee carrying out the duties of a seller's agent pursuant to K.S.A. 2003 Supp. 58-30,106, and amendments thereto, a buyer's agent pursuant to K.S.A. 2003 Supp. 58-30,107, and amendments thereto, or a transaction broker pursuant to K.S.A. 2003 Supp. 58-30,113, and amendments thereto, shall not be considered to be a prize, gift or gratuity. Pay a commission or compensation to any person, not licensed under this act, for performing any activity for which a license is required under this act.~~

(12) Fail to see that financial obligations and commitments between the parties to an agreement to sell, exchange or lease real estate are in writing, expressing the exact agreement of the parties or to provide, within a reasonable time, copies thereof to all parties involved.

(13) Procure a signature to a purchase contract which has no definite purchase price, method of payment, description of property or method of determining the closing date.

(14) Engage in fraud or make any substantial misrepresentation.

(15) Represent to any lender, guaranteeing agency or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

(16) Fail to make known to any purchaser or lessee any interest the licensee has in the real estate the licensee is selling or leasing or to make known to any seller or lessor any interest the licensee will have in the real estate the licensee is purchasing or leasing.

(17) Fail to inform both the buyer, at the time an offer is made, and the seller, at the time an offer is presented, that certain closing costs must be paid and the approximate amount of such costs.

(18) Fail without just cause to surrender any document or instrument to the rightful owner.

(19) Accept anything other than cash as earnest money unless that fact is communicated to the owner prior to the owner's acceptance of the offer to purchase, and such fact is shown in the purchase agreement.

(20) Fail to deposit any check or cash received as an earnest money deposit or as a deposit on the purchase of a lot within five business days after the purchase agreement or lot reservation agreement is signed by all parties, unless otherwise specifically provided by written agreement of all parties to the purchase agreement or lot reservation agreement, in

which case the licensee shall deposit the check or cash received on the date provided by such written agreement.

(21) Fail in response to a request by the commission or the director to produce any document, book or record in the licensee's possession or under the licensee's control that concerns, directly or indirectly, any real estate transaction or the licensee's real estate business.

(22) Refuse to appear or testify under oath at any hearing held by the commission.

(23) Demonstrate incompetency to act as a broker, associate broker or salesperson.

(24) Knowingly receive or accept, directly or indirectly, any rebate, reduction or abatement of any charge, or any special favor or advantage or any monetary consideration or inducement, involving the issuance of a title insurance policy or contract concerning which the licensee is directly or indirectly connected, from a title insurance company or title insurance agent, or any officer, employee, attorney, agent or solicitor thereof.

(25) Engage in the purchase of one-, two-, three- or four-family dwellings, including condominiums and cooperatives, or the acquisition of any right, title or interest therein, including any equity or redemption interests, if:

(A) (i) At the time of such purchase, the dwellings are subject to a right of redemption pursuant to foreclosure of a mortgage on such dwellings; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder or judgment creditor who held such mortgage; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the judgment lien arising from the foreclosure of such mortgage, as payments become due under the loan, regardless of whether the licensee is obligated to do so;

(B) (i) the dwellings are subject to a loan which is secured by a mortgage and which is in default at the time of such purchase or in default within one year after such purchase; (ii) the licensee fails to give written notice of the purchase, within 20 days thereafter, to the mortgage holder; and (iii) the licensee, unless otherwise required by law or court order, fails to apply any rent proceeds from the dwellings to the mortgage as the payments come due, regardless of whether the licensee is obligated on the loan; or

(C) the licensee fails to notify, at the time of rental, any person renting any such dwelling of the extent and nature of the licensee's interest in such dwelling and the probable time until possession will be taken by the mortgage holder or judgment creditor.

(26) Commit forgery or, unless authorized to do so by a duly executed power of attorney, sign or initial any contractual agreement on behalf of another person in a real estate transaction.

(27) Enter into contracts with persons not licensed by the commission to perform services requiring a license under K.S.A. 58-3034 *et seq.*, and amendments thereto, except as provided by section 2 of 2004 Senate Bill No. 534, and amendments thereto.

(b) No salesperson or associate broker shall:

(1) Except as provided in paragraph (A) or (B), accept a commission or other valuable consideration from anyone other than the broker by whom the licensee is employed or with whom the licensee is associated as an independent contractor.

(A) A salesperson or associate broker may accept a commission or other valuable consideration from a licensee who employs the salesperson or associate broker as a personal assistant provided that: (i) the licensee and the salesperson or associate broker who is employed as a personal assistant are licensed under the supervision of the same broker, and (ii) the supervising broker agrees in writing that the personal assistant may be paid by the licensee.

(B) If a salesperson or associate broker has (i) organized as a professional corporation pursuant to K.S.A. 17-2706 *et seq.*, and amendments thereto, (ii) incorporated under the Kansas general corporation code contained in K.S.A. 17-6001 *et seq.*, and amendments thereto, (iii) organized under the Kansas limited liability company act contained in K.S.A. 2003 Supp. 17-7662 *et seq.*, and amendments thereto, or (iv) has organized as a limited liability partnership as defined in K.S.A. 2003 Supp. 56a-101, and amendments thereto, the commission or other valuable consideration

may be paid by the licensee's broker to such professional corporation, corporation, limited liability company or limited liability partnership. This provision shall not alter any other provisions of this act.

(2) Fail to place, as soon after receipt as practicable, any deposit money or other funds entrusted to the salesperson or associate broker in the custody of the broker whom the salesperson or associate broker represents.

(3) (A) Except as provided by paragraph (B), be employed by or associated with a licensee at any one time other than the supervising broker who employs such salesperson or associate broker or with who the salesperson or associate broker is associated as an independent contractor.

(B) An associate broker may be employed by or associated with more than one supervising broker at any one time if each supervising broker who employs or associates with the associate broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(4) *Except as provided by subsection (b), pay a commission or compensation to any person for performing any activity for which a license is required under this act.*

(5) *Fail to disclose to such salesperson's or associate broker's supervising broker or branch broker that such salesperson or associate broker is performing any activity for which a license is required under K.S.A. 58-3036, and amendments thereto, outside the supervision of the supervising broker or branch broker. The provisions of this subsection shall not apply to any activity or person exempted from the real estate brokers' and salespersons' license act pursuant to K.S.A. 58-3037, and amendments thereto.*

(c) No broker shall:

(1) Pay a commission or compensation to any person for performing the services of an associate broker or salesperson unless such person is licensed under this act and employed by or associated with the broker.

(2) Fail to deliver to the seller in every real estate transaction, at the time the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by the broker for the seller, or fail to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, or fail to retain true copies of such statements in the broker's files, except that the furnishing of such statements to the seller and buyer by an escrow agent shall relieve the broker's responsibility to the seller and the buyer.

(3) Fail to properly supervise the activities of an associated or employed salesperson or associate broker.

(4) Lend the broker's license to a salesperson, or permit a salesperson to operate as a broker.

(5) Fail to provide to the principal a written report every 30 days, along with a final report, itemizing disbursements made by the broker from advance listing fees.

(d) (1) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker, no listing broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(2) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and the property was not listed with a broker, no broker for the buyer shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase

agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

(3) If a purchase agreement provides that the earnest money be held by an escrow agent other than a real estate broker and neither the seller nor buyer is represented by a broker, no transaction broker shall:

(A) Fail to deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement within five business days after the purchase agreement is signed by all parties unless otherwise specifically provided by written agreement of all parties to the purchase agreement, in which case the broker shall deliver the purchase agreement and earnest money deposit to the escrow agent named in the purchase agreement on the date provided by such written agreement; or

(B) fail to obtain and keep in the transaction file a receipt from the escrow agent showing date of delivery of the purchase agreement and earnest money deposit.

The commission may adopt rules and regulations to require that such purchase agreement which provides that the earnest money be held by an escrow agent other than a real estate broker include: (1) notification of whether or not the escrow agent named in the purchase agreement maintains a surety bond, and (2) notification that statutes governing the disbursement of earnest money held in trust accounts of real estate brokers do not apply to earnest money deposited with the escrow agent named in the purchase agreement.

(e) A branch broker shall not be employed by or associated with more than one supervising broker at any one time unless each supervising broker who employs or associates with the branch broker consents to such multiple employment or association. Such consent shall be on a form provided by the commission and shall not be effective until a signed copy of the completed form has been filed with the commission.

(f) Nothing in this section shall be construed to grant any person a private right of action for damages or to eliminate any right of action pursuant to other statutes or common law.

Sec. 7. K.S.A. 2003 Supp. 60-2001, as amended by section 6 of 2004 House Bill No. 2293, is hereby amended to read as follows: 60-2001. (a) *Docket fee.* Except as otherwise provided by law, no case shall be filed or docketed in the district court, whether original or appealed, without payment of a docket fee in the amount of \$106 ~~during the period commencing July 1, 2003, and ending June 30, 2005, and \$105 on or after July 1, 2005,~~ to the clerk of the district court.

(b) *Poverty affidavit in lieu of docket fee.* (1) *Effect.* In any case where a plaintiff by reason of poverty is unable to pay a docket fee, and an affidavit so stating is filed, no fee will be required. An inmate in the custody of the secretary of corrections may file a poverty affidavit only if the inmate attaches a statement disclosing the average account balance, or the total deposits, whichever is less, in the inmate's trust fund for each month in (A) the six-month period preceding the filing of the action; or (B) the current period of incarceration, whichever is shorter. Such statement shall be certified by the secretary. On receipt of the affidavit and attached statement, the court shall determine the initial fee to be assessed for filing the action and in no event shall the court require an inmate to pay less than \$3. The secretary of corrections is hereby authorized to disburse money from the inmate's account to pay the costs as determined by the court. If the inmate has a zero balance in such inmate's account, the secretary shall debit such account in the amount of \$3 per filing fee as established by the court until money is credited to the account to pay such docket fee. Any initial filing fees assessed pursuant to this subsection shall not prevent the court, pursuant to subsection (d), from taxing that individual for the remainder of the amount required under subsection (a) or this subsection.

(2) *Form of affidavit.* The affidavit provided for in this subsection shall be in the following form and attached to the petition:

State of Kansas, _____ County.

In the district court of the county: I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee.

(c) *Disposition of fees.* The docket fees and the fees for service of process shall be the only costs assessed in each case for services of the

clerk of the district court and the sheriff. For every person to be served by the sheriff, the persons requesting service of process shall provide proper payment to the clerk and the clerk of the district court shall forward the service of process fee to the sheriff in accordance with K.S.A. 28-110, and amendments thereto. The service of process fee, if paid by check or money order, shall be made payable to the sheriff. Such service of process fee shall be submitted by the sheriff at least monthly to the county treasurer for deposit in the county treasury and credited to the county general fund. The docket fee shall be disbursed in accordance with K.S.A. 20-362 and amendments thereto.

(d) *Additional court costs.* Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process, fees for depositions, alternative dispute resolution fees, transcripts and publication, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties as directed by the court. No sheriff in this state shall charge any mileage for serving any papers or process.

Sec. 8. K.S.A. 65-468, as amended by section 1 of 2004 House Bill No. 2760, is hereby amended to read as follows: 65-468. As used in K.S.A. 65-468 to 65-474, inclusive, and amendments thereto:

(a) "Health care provider" means any person licensed or otherwise authorized by law to provide health care services in this state or a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by law to form such corporation and who are health care providers as defined by this subsection, or an officer, employee or agent thereof, acting in the course and scope of employment or agency.

(b) "Member" means any hospital, emergency medical service, local health department, home health agency, adult care home, medical clinic, mental health center or clinic or nonemergency transportation system.

(c) "Mid-level practitioner" means a ~~physician's~~ *physician* assistant or advanced registered nurse practitioner who has entered into a written protocol with a rural health network physician.

(d) "Physician" means a person licensed to practice medicine and surgery.

(e) "Rural health network" means an alliance of members including at least one critical access hospital and at least one other hospital which has developed a comprehensive plan submitted to and approved by the secretary of health and environment regarding patient referral and transfer; the provision of emergency and nonemergency transportation among members; the development of a network-wide emergency services plan; and the development of a plan for sharing patient information and services between hospital members concerning medical staff credentialing, risk management, quality assurance and peer review.

(f) "Critical access hospital" means a member of a rural health network which makes available twenty-four hour emergency care services; provides not more than 25 acute care inpatient beds or in the case of a facility with an approved swing-bed agreement a combined total of extended care and acute care beds that does not exceed 25 beds; provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis under written agreements or arrangements with one or more providers or suppliers recognized under medicare. The critical access hospital may provide inpatient services by a ~~physician's~~ *physician* assistant, nurse practitioner or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility. In addition to the facility's 25 acute beds or swing beds, or both, the critical access hospital may have a psychiatric unit or a rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither unit will count toward the 25-bed limit, nor will these units be subject to the

average 96-hour length of stay restriction.

(g) "Hospital" means a hospital other than a critical access hospital which has entered into a written agreement with at least one critical access hospital to form a rural health network and to provide medical or administrative supporting services within the limit of the hospital's capabilities.

Sec. 9. K.S.A. 2003 Supp. 65-2891, as amended by section 5 of 2004 House Bill No. 2813, is hereby amended to read as follows: 65-2891. (a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by the patient's family or by guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical therapist, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physician assistants of the American board of medical examiners, any ~~registered~~ licensed athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any person engaged in a postgraduate training program approved by the state board of healing arts.

Sec. 10. K.S.A. 2003 Supp. 72-6431 is hereby amended to read as follows: 72-6431. (a) The board of each district shall levy an ad valorem tax upon the taxable tangible property of the district in the school years specified in subsection (b) for the purpose of:

(1) Financing that portion of the district's general fund budget which is not financed from any other source provided by law;

(2) paying a portion of the costs of operating and maintaining public schools in partial fulfillment of the constitutional obligation of the legislature to finance the educational interests of the state; and

(3) with respect to any redevelopment district established prior to July 1, 1997, pursuant to K.S.A. 12-1771, and amendments thereto, paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district.

(b) The tax required under subsection (a) shall be levied at a rate of 20 mills in the school year 2003-2004 and school year 2004-2005.

(c) The proceeds from the tax levied by a district under authority of this section, except the proceeds of such tax levied for the purpose of

paying a portion of the principal and interest on bonds issued by cities under authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the district, shall be deposited in the general fund of the district.

(d) On June 16 of each year, the amount, if any, by which a district's local effort exceeds the amount of the district's state financial aid, as determined by the state board, shall be remitted to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the same in the state treasury to the credit of the state school district finance fund.

(e) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-1964b, and amendments thereto.

Sec. 11. K.S.A. 2003 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas law enforcement training commission, created by K.S.A. 74-5606 and amendments thereto.

(c) "Dean" means the dean of the division of continuing education of the university of Kansas.

(d) "Director," as created in K.S.A. 74-5603 and amendments thereto, means the director of police training at the law enforcement training center.

(e) "*Law enforcement*" means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.

(f) "Police officer" or "law enforcement officer" means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff's office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858 and amendments thereto; conservation officers of the Kansas department of wildlife and parks; ~~campus police officers at all state educational institutions or a municipal university~~ *university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto;* law enforcement agents of the director of alcoholic beverage control; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol area security guards, existing under the authority of K.S.A. 75-4503 and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524 and amendments thereto; and school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222 and amendments thereto. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official's elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife and parks; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person's office or employment. Such term shall include any officer appointed or elected on a provisional basis.

(g) "Full-time" means employment requiring at least 1,000 hours of *law enforcement related* work per year.

(h) "Part-time" means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of *law enforcement*

related work per year.

(h) (i) “Misdemeanor crime of domestic violence” means a violation of domestic battery as provided by K.S.A. 2003 Supp. 21-3412a and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(h) (j) “Auxiliary personnel” means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff’s department, including reserve officers, posses and search and rescue groups.

Sec. 12. K.S.A. 2003 Supp. 74-8017 is hereby amended to read as follows: 74-8017. On and after January 1, 2003, it shall be the duty of Kansas, Inc. to prepare an annual report evaluating the cost effectiveness of the various income tax credits and sales tax exemptions enacted to encourage economic development within this state and submit the same to the standing committees on taxation and economic development of the house and assessment and taxation and commerce of the senate at the beginning of each regular session of the legislature. The secretary of revenue, in consultation with the president of Kansas, Inc., shall develop a questionnaire on the utilization of state income tax credits and sales tax exemptions that shall be completed by all corporate taxpayers that: (1) Are subject to state income tax and (2) utilize any of the state income tax credits and exemptions described in subsections (a) through (i) below that shall be submitted to the department of revenue concurrently with the filing of an annual corporate income tax return. The secretary shall provide the completed questionnaires to Kansas, Inc. for use in the preparation of such annual report. The questionnaire shall require respondents to indicate utilization of the following credits and exemptions:

(a) Income tax credits authorized under the provisions of the job expansion and investment credit act of 1976 and acts amendatory thereof and supplemental thereto;

(b) income tax credits for expenditures in research and development activities authorized by K.S.A. 79-32,182, and amendments thereto;

(c) income and financial institutions privilege tax credits for cash investment in stock of Kansas Venture Capital, Inc. authorized by K.S.A. 74-8205 and 74-8206, and amendments thereto;

(d) income tax credits for cash investment in certified Kansas venture capital companies authorized by K.S.A. 74-8304, and amendments thereto;

(e) income tax credits for cash investment in certified local seed capital pools authorized by K.S.A. 74-8401, and amendments thereto;

(f) income tax credits for investment in the training and education of qualified firms’ employees authorized by K.S.A. 74-50,132, and amendments thereto;

(g) sales tax exemptions for property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business, or retail business meeting the requirements of K.S.A. 74-50,115, and amendments thereto, and machinery and equipment for installation at such business or retail business authorized by subsection (cc) of K.S.A. 79-3606, and amendments thereto;

(h) sales tax exemptions for machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility. The secretary of revenue shall provide the completed questionnaires and copies of sales tax exemption certificates to Kansas, Inc. for the preparation of such report; ~~and~~

(i) distribution from the special economic revitalization fund pursuant to the provisions of the economic revitalization reinvestment act, K.S.A. 2003 Supp. 74-50,136, and amendments thereto; *and*

(j) *special obligation bonds authorized by K.S.A. 12-1774, and amendments thereto.*

Sec. 13. K.S.A. 2003 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed,

against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. A request for exemption pursuant to: (1) Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a *Second*, and amendments thereto, for property constructed or purchased, in whole or in part, with the proceeds of revenue bonds under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, prepared in accordance with instructions and assistance which shall be provided by the department of commerce and housing, shall be deemed approved unless scheduled for hearing within 30 days after the date of receipt of all required information and data relating to the request for exemption, and such hearing shall be conducted within 90 days after such date. Such time periods shall be determined without regard to any extension or continuance allowed to either party to such request. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) Except as otherwise provided by subsection (g), in the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use except that, with respect to property the construction of which commenced not to exceed 24 months prior to the date of first exempt use, the same shall be effective beginning with the date of commencement of construction.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the effective date of the exemption. In the event that taxes have been paid during the period where the subject property has been deter-

mined to be exempt, the board shall have the authority to order a refund of taxes for the year immediately preceding the year in which the exemption application is filed in accordance with subsection (a).

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) property exempted from ad valorem taxation by K.S.A. 79-201a *Seventeenth* and amendments thereto, including all property previously acquired by the secretary of transportation or a predecessor in interest, which is used in the administration, construction, maintenance or operation of the state system of highways. The secretary of transportation shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (9) property exempted from ad valorem taxation by K.S.A. 79-201a *Ninth*, and amendments thereto, including all property previously acquired by the Kansas turnpike authority which is used in the administration, construction, maintenance or operation of the Kansas turnpike. The Kansas turnpike authority shall at the time of acquisition of property notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (10) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning ascribed thereto by K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (12) property used exclusively by the state or any municipality or political subdivision of the state for right-of-way purposes. The state agency or the governing body of the municipality or political subdivision shall at the time of acquisition of property for right-of-way purposes notify the county appraiser in the county in which the property is located that the acquisition occurred and provide a legal description of the property acquired; (13) machinery, equipment, materials and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and amendments thereto; (14) vehicles owned by the state or by any political or taxing subdivision thereof and used exclusively for governmental purposes; (15) property used for residential purposes which is exempted pursuant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A. 72-6431, and amendments thereto; (16) from and after July 1, 1998, vehicles which are owned by an organization having as one of its purposes the assistance by the provision of transit services to the elderly and to disabled persons and which are exempted pursuant to K.S.A. 79-201 *Ninth*; and (17) from and after July 1, 1998, motor vehicles exempted from taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

(n) The provisions of subsection (k) as amended by this act shall be applicable to all exemption applications filed in accordance with subsection (a) after December 31, 2001.

Sec. 14. K.S.A. 2003 Supp. 79-3271 is hereby amended to read as follows: 79-3271. As used in this act, unless the context otherwise requires: (a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, except that for taxable years commencing after December 31, 1995, a taxpayer may elect that all income constitutes business income. The election shall be effective and irrevocable for the taxable year of the election and the following nine taxable years. The election shall be binding on all members of a unitary

group of corporations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, or any type of insurance company, but such term shall not be deemed to include any business entity, other than those hereinbefore enumerated, whose primary business activity is making consumer loans or purchasing retail installment contracts from one or more sellers.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity which owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, oil, oil products or gas.

(g) "Original return" means the first return filed to report the income of a taxpayer for a taxable year or period, irrespective of whether such return is filed on a single entity basis or a combined basis.

(h) "Sales" means all gross receipts of the taxpayer not allocated under K.S.A. 79-3274 through 79-3278, and amendments thereto.

(i) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(j) "Telecommunications company" means any business entity or unitary group of entities whose primary business activity is the transmission of communications in the form of voice, data, signals or facsimile communications by wire or fiber optic cable.

(k) "Distressed area taxpayer" means a corporation which: (1) Is located in a county which has a population of not more than 45,000 persons and which, as certified by the department of commerce and housing, has sustained an adverse economic impact due to the closure of a state hospital in such county pursuant to the recommendations of the hospital closure commission; and (2) which has a total annual payroll of \$20,000,000 or more for employees employed within such county.

(l) For the purposes of this subsection and subsection (b)(5) of K.S.A. 79-3279, and amendments thereto, the following terms are defined:

(1) "Administration services" include clerical, fund or shareholder accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal and tax services performed for an investment company;

(2) "distribution services" include the services of advertising, servicing, marketing, underwriting or selling shares of an investment company, but, in the case of advertising, servicing or marketing shares, only where such service is performed by a person who is, or in the case of a closed end company, was, either engaged in the services of underwriting or selling investment company shares or affiliated with a person who is engaged in the service of underwriting or selling investment company shares. In the case of an open end company, such service of underwriting or selling shares must be performed pursuant to a contract entered into pursuant to 15 U.S.C. §80a-15(b), as in effect on the effective date of this act;

(3) "investment company", means any person registered under the federal Investment Company Act of 1940, as in effect on the effective date of this act, or a company which would be required to register as an investment company under such act except that such person is exempt to such registration pursuant to §80a-3(c)(1) of such act;

(4) "investment funds service corporation" includes any corporation or S corporation headquartered in and doing business in this state which derives more than 50% of its gross income from the provision of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company;

(5) "management services" include the rendering of investment advice to an investment company making determinations as to when sales and purchases of securities are to be made on behalf of the investment

company, or the selling or purchasing of securities constituting assets of an investment company, and related activities, but only where such activity or activities are performed:

(A) Pursuant to a contract with the investment company entered into pursuant to 15 U.S.C. §80a-15(a), in effect on the effective date of this act; or

(B) for a person that has entered into such contract with the investment company;

(6) "qualifying business income" is business income derived from the provision of management, distribution or administration services to or on behalf of an investment company or from trustees, sponsors and participants of employee benefit plans which have accounts in an investment company; and

(7) "residence" is the fund shareholder's primary residence address.

Sec. 15. K.S.A. 2003 Supp. 79-3425c is hereby amended to read as follows: 79-3425c. (a) On July 15, ~~2003~~ 2004, October 15, ~~2003~~ 2004, February 15, ~~2004~~ 2005, and May 15, ~~2004~~ 2005, and on each January 15, April 15, July 15 and October 15 of each year thereafter, the director of accounts and reports shall transfer \$625,000 to the county equalization and adjustment fund from the special city and county highway fund and on such dates the state treasurer shall apportion and pay to the several counties of the state 57% of the moneys in the special city and county highway fund, created by K.S.A. 79-3425, and amendments thereto, and shall apportion and pay to the several cities of the state the remaining 43% of such moneys.

(b) The allocation and payment to each county under the provisions of this section shall be made in the following manner:

First, Each county of the state shall receive a payment of \$5,000;

Second, Of the balance remaining, 44.06% thereof shall be apportioned and paid to each county on February 15, ~~2004~~ 2005, and May 15, ~~2004~~ 2005, and on each January 15 and April 15 of each year thereafter in the proportion that the total amount of money collected in such county from motor vehicle registration fees for the second preceding calendar year bears to the total amount of money collected in all counties from motor vehicle registration fees for the second preceding calendar year, and on July 15 and October 15 of each year in the proportion that the total amount of money collected in such county from motor vehicle registration fees for the preceding calendar year bears to the total amount of money collected in all counties from motor vehicle registration fees for the preceding calendar year;

Third, 44.06% of such balance shall be apportioned and paid to each county on February 15, ~~2004~~ 2005, and May 15, ~~2004~~ 2005, and on each January 15 and April 15 of each year thereafter in the proportion that the average daily vehicle miles traveled in such county for the second preceding calendar year bears to the average daily vehicle miles traveled in all counties of the state for the second preceding calendar year, and on July 15 and October 15 of each year in the proportion that the average daily vehicle miles traveled in such county for the preceding calendar year bears to the average daily vehicle miles traveled in all counties of the state for the preceding calendar year; and

Fourth, the remaining 11.88% of such balance shall be apportioned and paid to each county on February 15, ~~2004~~ 2005, and May 15, ~~2004~~ 2005, and on each January 15 and April 15 of each year thereafter in the proportion that the total road miles in such county for the second preceding calendar year bears to the total road miles in all counties of the state for the second preceding calendar year; and on July 15 and October 15 of each year in the proportion that the total road miles in such county for the preceding calendar year bears to the total road miles in all counties of the state for the preceding calendar year.

If the total amount of money received by any county pursuant to the foregoing distribution formula during the period from July 15 of any year to April 15 of the next succeeding year is less than the total amount received by such county from the special city and county highway fund and the county equalization and adjustment fund for fiscal year 1999, the state treasurer shall apportion and pay to each such county from the county equalization and adjustment fund an amount which together with the amount received pursuant to the foregoing distribution formula will equal the total amount received from the two aforementioned funds during such period of time. In the event that there is insufficient funds in

the county equalization and adjustment fund to pay each county the amount to which it is entitled, each county shall receive a payment in the proportion that the amount to which such county is entitled bears to the amount to which all such counties are entitled. If there is money remaining in such fund after such distribution, the state treasurer shall distribute the balance to the several counties in the manner provided in the second and third clauses of the foregoing formula for distributing moneys to counties from the special city and county highway fund.

All payments shall be made to the county treasurers of the respective counties, and upon receipt of the same:

(1) The county treasurers of Sedgwick and Shawnee counties shall credit 50% of the moneys received to the road and bridge fund of such counties and apportion and pay the remainder of such moneys to the several cities located in such counties;

(2) the county treasurer of Wyandotte county shall credit 10% of the moneys received to the road and bridge fund of such county and apportion and pay the remainder of such moneys to the several cities located in such county;

(3) the county treasurers of Lyon, Cowley, Crawford, Montgomery, Butler, Saline, Leavenworth, Riley, Reno and Douglas counties shall credit 90% of the moneys so received to the road and bridge fund of such counties and apportion and pay the remainder of such moneys to the several cities located in such counties except that no persons residing within the Fort Riley military reservation shall be included or considered in determining the population of any city located within Geary or Riley county; and

(4) the county treasurers of Johnson county and all other counties not listed in paragraphs (1), (2) or (3) shall credit all of the moneys received to the road and bridge fund of such counties.

Not less than 25% of the amount received by each county and credited to the county road and bridge fund under the provisions of this section shall be expended by the county on mail and school bus routes on county roads as defined in K.S.A. 68-101, and amendments thereto. Payments to the cities under the provisions of this subsection shall be in the proportion that the population of each city bears to the total population of all cities located in the same county as such city.

In counties which have not adopted the county-unit road system, the amount of money retained by such counties after distribution to the cities within such county pursuant to this subsection shall be distributed to each township within such county in not less than the proportion that the amount of money received by each township from the county and township road fund during the period from July 1, 1969, to June 30, 1970, bears to the total amount of money received by such county from the county and township road fund, the county road and city street funds, the special motor carrier fee county road fund and the special city and county highway fund during the period from July 1, 1969, to June 30, 1970, plus the amount such county would have received on July 15, 1970, from the special city and county highway fund based on the formula for distributing such fund in effect on June 30, 1970. All payments to townships hereunder shall be made to the treasurers thereof, and all moneys so received shall be deposited in the general road fund of such township.

(c) The allocation and payment of moneys to the several cities of the state from the special city and county highway fund shall be in the proportion that the population of each city bears to the total population of all cities in the state except that the population of any military reservation which has been annexed to a city after the date of December 31, 1981, shall not be included in the population of such city for the purpose of this allocation. All such payments shall be to the city treasurers of the respective cities. Upon receipt of same unless a consolidated street and highway fund is established pursuant to K.S.A. 12-1,119, and amendments thereto, the city treasurer of each city shall credit the same to a separate fund to be used for the construction, reconstruction, alteration, repair and maintenance of the streets and highways of such city and for the payment of bonds, and interest thereon, issued pursuant to K.S.A. 79-3425g, and amendments thereto.

(d) For the purposes of this section, the average daily vehicle miles traveled in each county shall be determined by the secretary of transportation, but it shall not include miles traveled on interstate highways, and the population of each city shall be reported in the annual enumeration

by the ~~state board~~ secretary of agriculture for the preceding calendar year.

(e) In order to reduce vehicular traffic and congestion on its streets and highways, the board of county commissioners of any county, the governing body of any city or the township board of any township may use for the purpose of constructing, repairing and maintaining footpaths and bicycle paths not to exceed 10% of the moneys such government receives under K.S.A. 79-3425c, and amendments thereto, except that such limitation shall not apply to moneys received by a county that the county is required to distribute to a city or a township. Such moneys shall not be expended on any recreational trail, as defined in subsection (b) of K.S.A. 2003 Supp. 58-3211, and amendments thereto.

Sec. 16. K.S.A. 2003 Supp. 83-302, as amended by section 20 of 2004 House Bill No. 2622, is hereby amended to read as follows: 83-302. (a) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a company in Kansas shall apply to the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 and thereafter an annual license renewal application fee of \$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 for each place of business. Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable.

(b) If any service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) Each technical representative shall be licensed annually by the secretary. Each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. The *Kansas* department of agriculture shall be authorized to charge a fee to the attendees of the continuing education seminars sponsored by the agency. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar. Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(d) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the last 365 days preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit

of the weights and measures fee fund.

Sec. 17. K.S.A. 2003 Supp. 83-402, as amended by section 21 of 2004 House Bill No. 2622, is hereby amended to read as follows: 83-402. (a) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a service company in Kansas shall apply to the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 and thereafter an annual license renewal application fee of \$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 for each place of business. Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable.

(b) If any service company maintains any out-of-state places of business which the service company operates in serving Kansas patrons, the applicant seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the service company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) Each technical representative shall be licensed annually by the secretary. Each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. The ~~state~~ *Kansas* department of agriculture shall be authorized to charge a fee to the attendees of the seminar sponsored by the department. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar. All technical representatives who install, repair, adjust or calibrate a device and certify such devices shall be required to pass the state examination annually. Each technical representative license shall expire on June 30 following issuance of the license and shall be void unless renewed prior to the expiration.

(d) No service company license may be issued or renewed under this section until the applicant's weights and measures have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology, by a weights and measures laboratory certified by the national institute of standards and technology, or by the appropriate certifying agency of another state in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the 12 calendar months next preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.

Sec. 18. K.S.A. 2003 Supp. 8-170, 8-170a, 22-2401a, 72-6431, 72-6431b, 72-6431c, 74-4911h, 74-5602, 74-8017, 74-8017a, 79-201y, 79-213, 79-213c, 79-2977a, 79-3271, 79-3271a, 79-3271b, 79-3425c, K.S.A. 2003 Supp. 2-1205, as amended by section 1 of 2004 House Bill No. 2622, K.S.A. 2003 Supp. 2-1205, as amended by section 188 of 2004 Senate Bill

No. 524, K.S.A. 2003 Supp. 2-2906, as amended by section 57 of 2004 Senate Bill No. 524, K.S.A. 8-1102, as amended by section 1 of 2004 Substitute for Senate Bill No. 380, K.S.A. 8-1102, as amended by section 1 of 2004 House Bill No. 2633, K.S.A. 2003 Supp. 19-101a, as amended by section 20 of 2004 House Substitute for Substitute for Senate Bill No. 153, K.S.A. 2003 Supp. 19-101a, as amended by section 5 of 2004 Senate Bill No. 461, K.S.A. 2003 Supp. 22-2401a, as amended by section 1 of 2004 House Substitute for Senate Bill No. 9, K.S.A. 2003 Supp. 22-2401a, as amended by section 6 of 2004 House Substitute for Senate Bill No. 136, K.S.A. 2003 Supp. 58-3062, as amended by section 1 of 2004 Senate Bill No. 534, K.S.A. 2003 Supp. 58-3062, as amended by section 3 of 2004 Senate Bill No. 404, K.S.A. 2003 Supp. 60-2001, as amended by section 6 of 2004 House Bill No. 2293, K.S.A. 2003 Supp. 60-2001, as amended by section 5 of 2004 Senate Bill No. 297, K.S.A. 65-468, as amended by section 1 of 2004 House Bill No. 2760, K.S.A. 65-468, as amended by section 3 of 2004 House Bill No. 2813, K.S.A. 2003 Supp. 65-2891, as amended by section 5 of 2004 House Bill No. 2813, K.S.A. 2003 Supp. 65-2891, as amended by section 11 of 2004 House Bill No. 2737, K.S.A. 2003 Supp. 74-5602, as amended by section 8 of 2004 House Substitute for Senate Bill No. 136, K.S.A. 2003 Supp. 74-5602, as amended by section 1 of 2004 Senate Bill No. 400, K.S.A. 2003 Supp. 79-3425c, as amended by section 174 of 2004 House Bill No. 2675, K.S.A. 2003 Supp. 79-3425c, as amended by section 134 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 79-34,147, as amended by section 176 of 2004 House Bill No. 2675, K.S.A. 82a-734, as amended by section 145 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 83-302, as amended by section 20 of 2004 House Bill No. 2622, K.S.A. 2003 Supp. 83-302, as amended by section 186 of 2004 Senate Bill No. 524, K.S.A. 2003 Supp. 83-402, as amended by section 21 of 2004 House Bill No. 2622, and K.S.A. 2003 Supp. 83-402, as amended by section 187 of 2004 Senate Bill No. 524, are hereby repealed.

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

Approved May 20, 2004.
