

HOUSE BILL No. 2370

By Committee on Appropriations

3-3

1 AN ACT concerning the state fire marshal; abolishing the office thereof;
2 transferring the duties and functions thereof to the division of facilities
3 management of the department of administration, the Kansas bureau
4 of investigation and the division of emergency management of the
5 office of the adjutant general; amending K.S.A. 19-1579, 19-4625, 21-
6 4318, 31-134a, 31-135, 31-136, 31-139, 31-141, 31-143, 31-146, 31-
7 147, 31-148, 31-150a, 31-155, 31-156, 31-165, 31-402, 36-132, 36-
8 133, 36-134, 39-928, 39-929, 40-2,110, 48-928, 50-644, 55-1803, 55-
9 1807, 55-1809, 55-1810, 55-1811, 55-1813, 65-429, 65-34,105, 75-
10 1515 and 80-114 and K.S.A. 2010 Supp. 21-4201, 21-4217, 31-133,
11 31-133a, 31-134, 31-137, 31-140, 31-142, 31-144, 31-150, 31-159,
12 31-170, 31-501, 31-502, 31-503, 31-504, 31-505, 31-506, 31-602, 31-
13 603, 31-604, 31-605, 31-606, 31-607, 31-608, 31-609, 31-611, 31-
14 701, 31-702, 31-703, 31-705, 36-510, 39-925, 39-935, 39-938, 39-
15 945, 40-252, 55-1812, 65-506, 65-508, 65-34,133, 65-34,136, 65-
16 34,137, 65-5703, 74-4911f, 74-5602, 74-8841, 75-1508, 75-1514, 75-
17 1517, 75-3170a, 75-36,102, 75-36,103, 76-327a, 76-7,105, 76-3319
18 and 77-618 and repealing the existing sections; also repealing K.S.A.
19 31-138, 31-157, 46-3201, 74-133, 75-1503, 75-1505, 75-1506, 75-
20 1507, 75-1511, 75-1516, 75-3136 and 75-3137 and K.S.A. 2010 Supp.
21 74-49781, 75-1510, 75-1513 and 76-327f.

22

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

24

25 New Section 1. The office of the state fire marshal, created by
26 K.S.A. 75-1510, and amendments thereto, is hereby abolished.

26

27 New Sec. 2. Except as otherwise provided in sections 5 through 10,
28 and amendments thereto, on the effective date of this act:

28

29 (a) All of the powers, duties and functions of the state fire marshal
30 are hereby transferred to and conferred and imposed upon the division of
31 facilities management of the department of administration and the
32 secretary of administration.

32

33 (b) In accordance with the provisions of appropriation acts, the
34 division of facilities management of the department of administration
35 shall administer the fire prevention fee fund, established by K.S.A. 75-
36 1514, and amendments thereto, subject to any amounts directed to be
transferred from the fire prevention fee fund to the hazardous material

1 program fund of the office of the adjutant general and to the department
2 of health and environment for the y-fire program as certified by the
3 secretary of administration for fiscal year 2012.

4 (c) The following funds shall be administered by the division of
5 facilities management of the department of administration in accordance
6 with the provisions of appropriation acts:

7 (1) The fire safety standard and firefighter protection act
8 enforcement fund, established by K.S.A. 2010 Supp. 31-604, and
9 amendments thereto;

10 (2) the cigarette fire safety standard and firefighter protection act
11 fund, established by K.S.A. 2010 Supp. 31-609, and amendments thereto;
12 and

13 (3) the liquefied petroleum gas fee fund, established by K.S.A. 55-
14 1813, and amendments thereto.

15 (d) All liabilities of the state fire marshal, including accrued
16 compensation or salaries of officers and employees who are transferred to
17 the division of facilities management of the department of administration
18 under this section shall be assumed and paid by the division of facilities
19 management of the department of administration.

20 New Sec. 3. Except as otherwise provided in sections 5 through 10,
21 and amendments thereto, on the effective date of this act:

22 (a) The division of facilities management of the department of
23 administration and the secretary of administration shall be the successor
24 in every way to the powers, duties and functions of the state fire marshal
25 in which the same were vested prior to the effective date of this act and
26 that are transferred pursuant to section 2, and amendments thereto. Every
27 act performed in the exercise of such transferred powers, duties and
28 functions by or under the division of facilities management of the
29 department of administration or the secretary of administration pursuant
30 to section 2, and amendments thereto, shall be deemed to have the same
31 force and effect as if performed by the state fire marshal in which such
32 powers, duties and functions were vested prior to the effective date of this
33 act.

34 (b) Whenever the state fire marshal, or words of like effect, are
35 referred to or designated by a statute, contract or other document and
36 such reference is in regard to any of the powers, duties or functions
37 transferred to the division of facilities management of the department of
38 administration pursuant to section 2, and amendments thereto, such
39 reference or designation shall be deemed to apply to the division of
40 facilities management of the department of administration or the secretary
41 of administration as the context requires.

42 (c) All rules and regulations, orders and directives of the state fire
43 marshal which are in effect on the effective date of this act shall continue

1 to be effective and shall be deemed to be rules and regulations, orders and
2 directives of the division of facilities management of the department of
3 administration or the secretary of administration until revised, amended,
4 revoked or nullified pursuant to law.

5 (d) The secretary of administration shall have the legal custody of all
6 records, memoranda, writings, entries, prints, representations, electronic
7 data or combinations thereof of any act, transaction, occurrence or event
8 of the state fire marshal relating to any of the powers, duties or functions
9 transferred to the division of facilities management of the department of
10 administration or the secretary of administration pursuant to section 2,
11 and amendments thereto.

12 (e) The secretary of administration shall be the continuation of the
13 state fire marshal with respect to the powers, duties and functions
14 transferred to the division of facilities management of the department of
15 administration or the secretary of administration pursuant to section 2,
16 and amendments thereto.

17 (f) (1) All officers and employees who, immediately prior to the
18 effective date of this act, were engaged in the performance of powers,
19 duties or functions of the state fire marshal concerning programs
20 transferred pursuant to section 2, and amendments thereto, or the powers,
21 duties and functions of which are transferred to the division of facilities
22 management of the department of administration, and who, in the opinion
23 of the secretary of administration, are necessary to perform the powers,
24 duties and functions of the division of facilities management of the
25 department of administration, shall be transferred to, and shall become
26 officers and employees of the division of facilities management of the
27 department of administration.

28 (2) Officers and employees of the state fire marshal transferred by
29 this act shall retain all retirement benefits and leave balances and rights
30 which had accrued or vested prior to the date of transfer, including any
31 benefits and rights accrued or vested as a result of participating in the
32 Kansas public employees retirement system or the Kansas police and
33 firemen's retirement system and such participation shall continue as
34 provided by law. The service of each such officer and employee so
35 transferred shall be deemed to have been continuous. All transfers, layoffs
36 or abolition of classified service positions under the Kansas civil service
37 act shall be made in accordance with the civil service laws and any rules
38 and regulations adopted thereunder. Nothing in this act shall affect the
39 classified status of any transferred person employed by the state fire
40 marshal.

41 New Sec. 4. (a) When any conflict arises as to the disposition of
42 any property, power, duty or function or the unexpended balance of any
43 appropriation as a result of any abolition or transfer made by or under

1 section 2, and amendments thereto, such conflict shall be resolved by the
2 governor, whose decision shall be final.

3 (b) The division of facilities management of the department of
4 administration shall succeed to all property, property rights and records
5 which were used for or pertain to the performance of powers, duties and
6 functions transferred to the division of facilities management of the
7 department of administration pursuant to section 2, and amendments
8 thereto. Any conflict as to the proper disposition of property, personnel or
9 records arising under this section or sections 2 or 3, and amendments
10 thereto, shall be determined by the governor, whose decision shall be
11 final.

12 New Sec. 5. On the effective date of this act:

13 (a) The powers, duties and functions of the state fire marshal relating
14 to post-incident fire or explosion investigations are hereby transferred to
15 and conferred and imposed upon the Kansas bureau of investigation and
16 the attorney general.

17 (b) The director of accounts and reports shall transfer 21% of any
18 remaining balance in the fire prevention fee fund, excluding any amounts
19 to be transferred to the hazardous material program fund of the office of
20 the adjutant general and to the department of health and environment for
21 the y-fire program as certified by the secretary of administration for fiscal
22 year 2012, to the KBI fire investigation fund of the Kansas bureau of
23 investigation, established by section 12, and amendments thereto.

24 (c) All liabilities of the state fire marshal, including accrued
25 compensation or salaries of officers and employees who are transferred to
26 the Kansas bureau of investigation under this section shall be assumed
27 and paid by the Kansas bureau of investigation.

28 New Sec. 6. On the effective date of this act:

29 (a) The Kansas bureau of investigation and the attorney general shall
30 be the successor in every way to the powers, duties and functions of the
31 state fire marshal in which the same were vested prior to the effective
32 date of this act and that are transferred pursuant to section 5, and
33 amendments thereto. Every act performed in the exercise of such
34 transferred powers, duties and functions by or under the Kansas bureau of
35 investigation or the attorney general pursuant to section 5, and
36 amendments thereto, shall be deemed to have the same force and effect as
37 if performed by the state fire marshal in which such powers, duties and
38 functions were vested prior to the effective date of this act.

39 (b) Whenever the state fire marshal, or words of like effect, are
40 referred to or designated by a statute, contract or other document and
41 such reference is in regard to any of the powers, duties or functions
42 transferred to the Kansas bureau of investigation pursuant to section 5,
43 and amendments thereto, such reference or designation shall be deemed

1 to apply to the Kansas bureau of investigation or the attorney general as
2 the context requires.

3 (c) All rules and regulations, orders and directives of the state fire
4 marshal relating to any of the powers, duties or functions transferred to
5 the Kansas bureau of investigation pursuant to section 5, and amendments
6 thereto, which are in effect on the effective date of this act shall continue
7 to be effective and shall be deemed to be rules and regulations, orders and
8 directives of the Kansas bureau of investigation or the attorney general
9 until revised, amended, revoked or nullified pursuant to law.

10 (d) The attorney general shall have the legal custody of all records,
11 memoranda, writings, entries, prints, representations, electronic data or
12 combinations thereof of any act, transaction, occurrence or event of the
13 state fire marshal relating to any of the powers, duties or functions
14 transferred to the Kansas bureau of investigation or the attorney general
15 pursuant to section 5, and amendments thereto.

16 (e) The attorney general shall be the continuation of the state fire
17 marshal relating to any of the powers, duties or functions transferred to
18 the Kansas bureau of investigation or the attorney general pursuant to
19 section 5, and amendments thereto.

20 (f) (1) All officers and employees who, immediately prior to the
21 effective date of this act, were engaged in the performance of powers,
22 duties or functions of the state fire marshal concerning programs
23 transferred pursuant to section 5, and amendments thereto, or the powers,
24 duties and functions of which are transferred to the Kansas bureau of
25 investigation, and who, in the opinion of the attorney general, are
26 necessary to perform the powers, duties and functions of the Kansas
27 bureau of investigation, shall be transferred to, and shall become officers
28 and employees of the Kansas bureau of investigation.

29 (2) Officers and employees of the state fire marshal transferred by
30 this act shall retain all retirement benefits and leave balances and rights
31 which had accrued or vested prior to the date of transfer, including any
32 benefits and rights accrued or vested as a result of participating in the
33 Kansas public employees retirement system or the Kansas police and
34 firemen's retirement system and such participation shall continue as
35 provided by law. The service of each such officer and employee so
36 transferred shall be deemed to have been continuous. All transfers, layoffs
37 or abolition of classified service positions under the Kansas civil service
38 act shall be made in accordance with the civil service laws and any rules
39 and regulations adopted thereunder. Nothing in this act shall affect the
40 classified status of any transferred person employed by the state fire
41 marshal.

42 New Sec. 7. (a) When any conflict arises as to the disposition of
43 any property, power, duty or function or the unexpended balance of any

1 appropriation as a result of any abolition or transfer made by or under
2 section 5, and amendments thereto, such conflict shall be resolved by the
3 governor, whose decision shall be final.

4 (b) The Kansas bureau of investigation shall succeed to all property,
5 property rights and records which were used for or pertain to the
6 performance of powers, duties and functions transferred to the Kansas
7 bureau of investigation pursuant to section 5, and amendments thereto.
8 Any conflict as to the proper disposition of property, personnel or records
9 arising under this section or sections 5 or 6, and amendments thereto,
10 shall be determined by the governor, whose decision shall be final.

11 New Sec. 8. On the effective date of this act:

12 (a) The powers, duties and functions of the state fire marshal relating
13 to responding to hazardous materials incidents are hereby transferred to
14 and conferred and imposed upon the division of emergency management
15 of the office of the adjutant general and the adjutant general.

16 (b) The director of accounts and reports shall transfer 22% of any
17 remaining balance in the fire prevention fee fund, excluding any amounts
18 to be transferred to the department of health and environment for the y-
19 fire program as certified by the secretary of administration for fiscal year
20 2012, to the hazardous materials emergency fund.

21 (c) The hazardous materials emergency fund and the hazardous
22 material program fund shall be administered by the division of emergency
23 management of the office of the adjutant general. All expenditures from
24 the hazardous materials emergency fund or the hazardous material
25 program fund shall be made in accordance with the provisions of
26 appropriation acts upon warrants of the director of accounts and reports
27 issued pursuant to vouchers approved by the adjutant general, or the
28 adjutant general's designee.

29 (d) All liabilities of the state fire marshal relating to the powers,
30 duties and functions transferred by this section, and amendments thereto,
31 including accrued compensation or salaries of officers and employees
32 who are transferred to the division of emergency management of the
33 office of the adjutant general under this section, and amendments thereto,
34 shall be assumed and paid by the division of emergency management of
35 the office of the adjutant general.

36 New Sec. 9. On and after the effective date of this act:

37 (a) The division of emergency management of the office of the
38 adjutant general and the adjutant general shall be the successor in every
39 way to the powers, duties and functions of the state fire marshal in which
40 the same were vested prior to the effective date of this act and that are
41 transferred pursuant to section 8, and amendments thereto. Every act
42 performed in the exercise of such transferred powers, duties and functions
43 by or under the division of emergency management of the office of the

1 adjutant general or the adjutant general pursuant to section 8, and
2 amendments thereto, shall be deemed to have the same force and effect as
3 if performed by the state fire marshal in which such powers, duties and
4 functions were vested prior to the effective date of this act.

5 (b) Whenever the state fire marshal, or words of like effect, are
6 referred to or designated by a statute, contract or other document and
7 such reference is in regard to any of the powers, duties or functions
8 transferred to the division of emergency management of the office of the
9 adjutant general pursuant to section 8, and amendments thereto, such
10 reference or designation shall be deemed to apply to the division of
11 emergency management of the office of the adjutant general or the
12 adjutant general as the context requires.

13 (c) All rules and regulations, orders and directives of the state fire
14 marshal which relate to the powers, duties and functions transferred by
15 section 8, and amendments thereto, and which are in effect on the
16 effective date of this act shall continue to be effective and shall be
17 deemed to be rules and regulations, orders and directives of the division
18 of emergency management of the office of the adjutant general or the
19 adjutant general until revised, amended, revoked or nullified pursuant to
20 law.

21 (d) The adjutant general shall have the legal custody of all records,
22 memoranda, writings, entries, prints, representations, electronic data or
23 combinations thereof of any act, transaction, occurrence or event of the
24 state fire marshal relating to the powers, duties and functions transferred
25 to the division of emergency management of the office of the adjutant
26 general or the adjutant general pursuant to section 8, and amendments
27 thereto.

28 (e) The adjutant general shall be the continuation of the state fire
29 marshal relating to the powers, duties and functions transferred to the
30 division of emergency management of the office of the adjutant general
31 or the adjutant general pursuant to section 8, and amendments thereto.

32 (f) (1) All officers and employees who, immediately prior to the
33 effective date of this act, were engaged in the performance of powers,
34 duties or functions of the state fire marshal concerning programs
35 transferred pursuant to section 8, and amendments thereto, or the powers,
36 duties and functions of which are transferred to the division of emergency
37 management of the office of the adjutant general, and who, in the opinion
38 of the adjutant general, are necessary to perform the powers, duties and
39 functions of the division of emergency management of the office of the
40 adjutant general, shall be transferred to, and shall become officers and
41 employees of the division of emergency management of the office of the
42 adjutant general.

43 (2) Officers and employees of the state fire marshal transferred by

1 this act shall retain all retirement benefits and leave balances and rights
2 which had accrued or vested prior to the date of transfer, including any
3 benefits and rights accrued or vested as a result of participating in the
4 Kansas public employees retirement system or the Kansas police and
5 firemen's retirement system and such participation shall continue as
6 provided by law. The service of each such officer and employee so
7 transferred shall be deemed to have been continuous. All transfers, layoffs
8 or abolition of classified service positions under the Kansas civil service
9 act shall be made in accordance with the civil service laws and any rules
10 and regulations adopted thereunder. Nothing in this act shall affect the
11 classified status of any transferred person employed by the state fire
12 marshal.

13 New Sec. 10. (a) When any conflict arises as to the disposition of
14 any property, power, duty or function or the unexpended balance of any
15 appropriation as a result of any abolition or transfer made by or under
16 section 8, and amendments thereto, such conflict shall be resolved by the
17 governor, whose decision shall be final.

18 (b) The division of emergency management of the office of the
19 adjutant general shall succeed to all property, property rights and records
20 which were used for or pertain to the performance of powers, duties and
21 functions transferred to the division of emergency management of the
22 office of the adjutant general pursuant to section 8, and amendments
23 thereto. Any conflict as to the proper disposition of property, personnel or
24 records arising under this section or sections 8 or 9, and amendments
25 thereto, shall be determined by the governor, whose decision shall be
26 final.

27 New Sec. 11. (a) No suit, action or other proceeding, judicial or
28 administrative, lawfully commenced, or which could have been
29 commenced, by or against any state agency or program mentioned in
30 sections 2 through 10, and amendments thereto, or by or against any
31 officer of the state in such officer's official capacity or in relation to the
32 discharge of such officer's official duties, shall abate by reason of the
33 governmental reorganization effected under the provisions of sections 2
34 through 10, and amendments thereto. The court may allow any such suit,
35 action or other proceeding to be maintained by or against the successor of
36 any such state agency or any officer affected.

37 (b) No criminal action commenced or which could have been
38 commenced by the state shall abate by the taking effect of this section,
39 and amendments thereto.

40 New Sec. 12. (a) The Kansas bureau of investigation, the chief of
41 any organized fire department of any municipality, whether such fire
42 department is regular or volunteer, or any member of any such fire
43 department who has been duly authorized by the chief thereof, are

1 authorized to make any investigations deemed necessary of any fire or
2 explosion occurring within this state. Such persons shall make an
3 investigation of any fire or explosion occurring within this state, or an
4 attempt to cause any fire or explosion within this state, if there is reason
5 to believe that the fire was of an incendiary origin or was an attempt to
6 defraud an insurance company. In addition, the chief of any organized fire
7 department of any municipality may designate other qualified persons to
8 conduct such investigations in such municipality. In order to carry out
9 such investigations, the Kansas bureau of investigation and those persons
10 designated by or authorized to be designated by this section shall have the
11 right and authority at all times of day or night to enter upon or examine,
12 in accordance with existing laws and regulations, any building or
13 premises where any fire or explosion or attempt to cause a fire or
14 explosion has occurred. Such persons shall make a written report of the
15 findings of any investigation conducted pursuant to this section which
16 shall be filed with the Kansas bureau of investigation.

17 (b) If the Kansas bureau of investigation or any of the other persons
18 authorized to carry out investigations pursuant to subsection (a), having
19 made the investigation, shall be of the opinion that there is probable cause
20 to believe any person has violated any of the provisions of K.S.A. 31-
21 132 et seq., and amendments thereto, or any of the rules and regulations
22 adopted thereunder, or that any person is guilty of a criminal conduct
23 under the laws of this state with respect to any fire or explosion, such
24 investigator shall furnish to the attorney general or the district or county
25 attorney for the county in which such violation occurs the names of the
26 witnesses and all of the information and evidence obtained from the
27 investigation, including a copy of all pertinent and material testimony
28 taken in the case. The attorney general or such district or county attorney
29 shall take such action as the evidence and testimony justify. The Kansas
30 bureau of investigation or such other persons authorized to carry out
31 investigations pursuant to subsection (a) shall assist in any prosecution
32 arising from such investigation.

33 (c) (1) Full-time fire prevention personnel assigned investigation
34 duties who are members of a paid fire department and who have been
35 certified by the Kansas bureau of investigation pursuant to this section
36 shall have the authority to make arrests, carry firearms and conduct
37 searches and seizures while investigating any fire or explosion in which
38 arson or attempted arson is suspected or in which there is an attempt or
39 suspected attempt to defraud an insurance company. Any affidavits
40 necessary to authorize arrests, searches or seizures pursuant to this
41 section shall be made in accordance with K.S.A. 22-302 and 22-2502,
42 and amendments thereto.

43 (2) The attorney general shall specify the number of investigators for

1 departments or areas and shall adopt rules and regulations establishing
2 standards for certification of members of fire departments to make
3 arrests, carry firearms and conduct searches and seizures pursuant to this
4 section. No fire department personnel shall be certified to carry firearms
5 under the provisions of this act without having first successfully
6 completed the firearm training course or courses prescribed for law
7 enforcement officers under K.S.A. 74-5604a, and amendments thereto.

8 (3) With the exception of firearms training, nothing in this section
9 shall be construed to require persons employed prior to the effective date
10 of this act to comply with the standards established by the attorney
11 general pursuant to this section as a condition of continued employment,
12 and such persons' failure to comply with such standards shall not make
13 such persons ineligible for any promotional examination for which they
14 are otherwise eligible or affect in any way any pension rights to which
15 they are entitled on the effective date of this act.

16 (d) There is hereby established in the state treasury the KBI fire
17 investigation fund which shall be administered by the attorney general.
18 All expenditures from the KBI fire investigation fund by the Kansas
19 bureau of investigation shall be for the purpose of carrying out
20 investigations as set forth in this section and shall be made in accordance
21 with the provisions of appropriation acts upon warrants of the director of
22 accounts and reports issued pursuant to vouchers approved by the
23 attorney general, or the attorney general's designee.

24 (e) The attorney general shall adopt rules and regulations necessary
25 to implement the provisions of this section. Such rules and regulations
26 shall provide for the following:

27 (1) Procedures for the reporting of fires and explosions occurring
28 within the state and for the investigation thereof;

29 (2) certification requirements for individuals designated to
30 investigate fires and explosions pursuant to this section; and

31 (3) procedures for reporting by health care providers of treatment of
32 second and third degree burn wounds involving 20% or more of the
33 victim's body and requiring hospitalization of the victim, which reporting
34 is hereby authorized notwithstanding any provision of K.S.A. 60-427, and
35 amendments thereto, to the contrary.

36 Sec. 13. K.S.A. 19-1579 is hereby amended to read as follows: 19-
37 1579. The provisions of this act shall apply to any county having a
38 population of less than ~~five thousand~~ (~~5,000~~) 5,000 and having a total
39 assessed tangible valuation of more than ~~ten million dollars~~—
40 (~~\$10,000,000~~) \$10,000,000 and which county has prior to the effective
41 date of this act made a tax levy or levies for the purpose of providing
42 funds to be used for the construction of a courthouse, jail or sheriff's
43 quarters or for one or more such purposes, and which has accumulated at

1 least ~~forty-five thousand dollars (\$45,000)~~ \$45,000 for such purposes and
2 in which county the ~~state fire marshal~~ *division of facilities management*
3 *of the department of administration* has condemned the basement and the
4 second floor above the ground of the courthouse now in existence in ~~said~~
5 *such county*.

6 Sec. 14. K.S.A. 19-4625 is hereby amended to read as follows: 19-
7 4625. Any commission may close and terminate operation of a county
8 hospital in accordance with the following provisions:

9 (a) Whenever the commission maintaining and operating the
10 hospital shall determine, by resolution, that it is in the best interest of the
11 county that operation of the hospital should be closed and terminated, or
12 whenever a petition signed by not less than 5% of the qualified electors of
13 a county requesting that operation of the hospital be closed and
14 terminated is filed with the county clerk, there shall be submitted a
15 proposition authorizing the same to the qualified electors of the county at
16 the next regular county election or, if no regular county election is to be
17 held within six months from the date of adoption of the resolution or
18 filing of the petition, at a special election called for the purpose of
19 submitting such proposition. If a majority of the votes cast on the
20 proposition are in favor thereof, the commission shall perform all acts
21 necessary to close and terminate the operation of the county hospital.

22 (b) If a majority of the votes cast at the election are in favor of the
23 proposition submitted under the provisions of subsection (a), the
24 commission may sell or donate and transfer and convey such hospital and
25 all real and personal property owned by such county and used in
26 connection with the operation of the hospital to a city in or near which the
27 hospital is located subject to the approval and acceptance of such city, or
28 to a hospital district established for such purpose, or to a nonprofit
29 corporation to be owned, managed, maintained and operated as a hospital
30 by such city, hospital district or corporation, or may dispose of all such
31 real and personal property as authorized by law for the disposition of
32 other county property. If the proposition submitted under subsection (a)
33 fails to receive a majority of the votes cast in favor thereof, the county
34 hospital shall be continued in operation.

35 (c) The commission and the board shall continue to pay the normal
36 and usual operating expenses of the hospital, including such maintenance
37 and repairs as are certified by the ~~state fire marshal~~ *division of facilities*
38 *management of the department of administration* or the secretary of
39 health and environment as being necessary for the safety of persons
40 admitted to the hospital, until such time as operation of the hospital is
41 terminated.

42 (d) The board of any hospital closed under the provisions of this
43 section, is hereby abolished. The balance of any moneys remaining in

1 any fund of the county hospital after termination of its operation and after
2 payment and performance of any obligation thereof shall be transferred to
3 the county general fund. Any records of a county hospital remaining after
4 the closing and termination of operation thereof shall be transferred to the
5 custody of the county clerk.

6 Sec. 15. K.S.A. 2010 Supp. 21-4201 is hereby amended to read as
7 follows: 21-4201. (a) Criminal use of weapons is knowingly:

8 (1) Selling, manufacturing, purchasing, possessing or carrying any
9 bludgeon, sandclub, metal knuckles or throwing star, or any knife,
10 commonly referred to as a switch-blade, which has a blade that opens
11 automatically by hand pressure applied to a button, spring or other device
12 in the handle of the knife, or any knife having a blade that opens or falls
13 or is ejected into position by the force of gravity or by an outward,
14 downward or centrifugal thrust or movement. This subsection shall not
15 prohibit any ordinary pocket knife which has a spring, detent or other
16 device which creates a bias towards closure of the blade and which
17 requires hand pressure applied to such spring, detent or device through
18 the blade of the knife to overcome the bias towards closure to assist in the
19 opening of the knife;

20 (2) carrying concealed on one's person, or possessing with intent to
21 use the same unlawfully against another, a dagger, dirk, billy, blackjack,
22 slungshot, dangerous knife, straight-edged razor, stiletto or any other
23 dangerous or deadly weapon or instrument of like character, except that
24 an ordinary pocket knife with no blade more than four inches in length
25 shall not be construed to be a dangerous knife, or a dangerous or deadly
26 weapon or instrument;

27 (3) carrying on one's person or in any land, water or air vehicle, with
28 intent to use the same unlawfully, a tear gas or smoke bomb or projector
29 or any object containing a noxious liquid, gas or substance;

30 (4) carrying any pistol, revolver or other firearm concealed on one's
31 person except when on the person's land or in the person's abode or fixed
32 place of business;

33 (5) setting a spring gun;

34 (6) possessing any device or attachment of any kind designed, used
35 or intended for use in suppressing the report of any firearm;

36 (7) selling, manufacturing, purchasing, possessing or carrying a
37 shotgun with a barrel less than 18 inches in length or any other firearm
38 designed to discharge or capable of discharging automatically more than
39 once by a single function of the trigger; or

40 (8) possessing, manufacturing, causing to be manufactured, selling,
41 offering for sale, lending, purchasing or giving away any cartridge which
42 can be fired by a handgun and which has a plastic-coated bullet that has a
43 core of less than 60% lead by weight.

1 (b) Subsections (a)(1), (2), (3), (4) and (7) shall not apply to or affect
2 any of the following:

3 (1) Law enforcement officers, or any person summoned by any such
4 officers to assist in making arrests or preserving the peace while actually
5 engaged in assisting such officer;

6 (2) wardens, superintendents, directors, security personnel and
7 keepers of prisons, penitentiaries, jails and other institutions for the
8 detention of persons accused or convicted of crime, while acting within
9 the scope of their authority;

10 (3) members of the armed services or reserve forces of the United
11 States or the Kansas national guard while in the performance of their
12 official duty; or

13 (4) manufacture of, transportation to, or sale of weapons to a person
14 authorized under subsections (b)(1), (2) and (3) to possess such weapons.

15 (c) Subsection (a)(4) shall not apply to or affect the following:

16 (1) Watchmen, while actually engaged in the performance of the
17 duties of their employment;

18 (2) licensed hunters or fishermen, while engaged in hunting or
19 fishing;

20 (3) private detectives licensed by the state to carry the firearm
21 involved, while actually engaged in the duties of their employment;

22 (4) detectives or special agents regularly employed by railroad
23 companies or other corporations to perform full-time security or
24 investigative service, while actually engaged in the duties of their
25 employment;

26 ~~(5) the state fire marshal, the state fire marshal's deputies or any~~
27 ~~member of a fire department authorized to carry a firearm pursuant to~~
28 ~~K.S.A. 31-157 and amendments thereto, while engaged in an~~
29 ~~investigation in which such fire marshal, deputy or member is authorized~~
30 ~~to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto;~~

31 ~~(6)~~ (5) special deputy sheriffs described in K.S.A. 19-827, and
32 amendments thereto, who have satisfactorily completed the basic course
33 of instruction required for permanent appointment as a part-time law
34 enforcement officer under K.S.A. 74-5607a, and amendments thereto; or

35 (7) (6) the United States attorney for the district of Kansas, the
36 attorney general, any district attorney or county attorney, any assistant
37 United States attorney if authorized by the United States attorney for the
38 district of Kansas, any assistant attorney general if authorized by the
39 attorney general, or any assistant district attorney or assistant county
40 attorney if authorized by the district attorney or county attorney by whom
41 such assistant is employed. The provisions of this paragraph shall not
42 apply to any person not in compliance with K.S.A. 2010 Supp. 75-7c19,
43 and amendments thereto.

1 (d) Subsections (a)(1), (6) and (7) shall not apply to any person who
2 sells, purchases, possesses or carries a firearm, device or attachment
3 which has been rendered unserviceable by steel weld in the chamber and
4 marriage weld of the barrel to the receiver and which has been registered
5 in the national firearms registration and transfer record in compliance
6 with 26 U.S.C. § 5841 et seq., in the name of such person and, if such
7 person transfers such firearm, device or attachment to another person, has
8 been so registered in the transferee's name by the transferor.

9 (e) Subsection (a)(8) shall not apply to a governmental laboratory or
10 solid plastic bullets.

11 (f) Subsection (a)(6) shall not apply to a law enforcement officer
12 who is:

13 (1) Assigned by the head of such officer's law enforcement agency
14 to a tactical unit which receives specialized, regular training;

15 (2) designated by the head of such officer's law enforcement agency
16 to possess devices described in subsection (a)(6); and

17 (3) in possession of commercially manufactured devices which are:
18 (A) Owned by the law enforcement agency; (B) in such officer's
19 possession only during specific operations; and (C) approved by the
20 bureau of alcohol, tobacco, firearms and explosives of the United States
21 department of justice.

22 (g) Subsections (a)(6), (7) and (8) shall not apply to any person
23 employed by a laboratory which is certified by the United States
24 department of justice, national institute of justice, while actually engaged
25 in the duties of their employment and on the premises of such certified
26 laboratory. Subsections (a)(6), (7) and (8) shall not affect the manufacture
27 of, transportation to or sale of weapons to such certified laboratory.

28 (h) Subsection (a)(4) shall not apply to any person carrying a
29 concealed handgun as authorized by K.S.A. 2010 Supp. 75-7c01 et seq.,
30 and amendments thereto. It shall not be a violation of this section if a
31 person violates the provisions of K.S.A. 2010 Supp. 75-7c03, and
32 amendments thereto, but has an otherwise valid license to carry a
33 concealed handgun which is issued or recognized by this state.

34 (i) Subsections (a)(6) and (7) shall not apply to or affect any person
35 or entity in compliance with the national firearms act, 26 U.S.C. § 5801 et
36 seq.

37 (j) It shall be a defense that the defendant is within an exemption.

38 (k) Violation of subsections (a)(1) through (a)(5) is a class A
39 nonperson misdemeanor. Violation of subsection (a)(6), (a)(7) or (a)(8) is
40 a severity level 9, nonperson felony.

41 (l) As used in this section, "throwing star" means any instrument,
42 without handles, consisting of a metal plate having three or more
43 radiating points with one or more sharp edges and designed in the shape

1 of a polygon, trefoil, cross, star, diamond or other geometric shape,
2 manufactured for use as a weapon for throwing.

3 Sec. 16. K.S.A. 2010 Supp. 21-4217 is hereby amended to read as
4 follows: 21-4217. (a) Criminal discharge of a firearm is the discharge of
5 any firearm:

6 (1) Upon any land or nonnavigable body of water of another,
7 without having obtained permission of the owner or person in possession
8 of such land; or

9 (2) upon or from any public road, public road right-of-way or
10 railroad right-of-way that adjoins land of another without having first
11 obtained permission of the owner or person in possession of such land.

12 (b) This section shall not apply to any of the following:

13 (1) Law enforcement officers, or any person summoned by any such
14 officers to assist in making arrests or preserving the peace while actually
15 engaged in assisting such officer;

16 (2) wardens, superintendents, directors, security personnel and
17 keepers of prisons, penitentiaries, jails and other institutions for the
18 detention of persons accused or convicted of crime, while acting within
19 the scope of their authority;

20 (3) members of the armed services or reserve forces of the United
21 States or the national guard while in the performance of their official
22 duty;

23 (4) watchmen, while actually engaged in the performance of the
24 duties of their employment;

25 (5) private detectives licensed by the state to carry the firearm
26 involved, while actually engaged in the duties of their employment;

27 (6) detectives or special agents regularly employed by railroad
28 companies or other corporations to perform full-time security or
29 investigative service, while actually engaged in the duties of their
30 employment; *or*

31 ~~(7) the state fire marshal, the state fire marshal's deputies or any~~
32 ~~member of a fire department authorized to carry a firearm pursuant to~~
33 ~~K.S.A. 31-157 and amendments thereto, while engaged in an~~
34 ~~investigation in which such fire marshal, deputy or member is authorized~~
35 ~~to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto; or~~

36 (8) (7) the United States attorney for the district of Kansas, the
37 attorney general, or any district attorney or county attorney, while
38 actually engaged in the duties of their employment or any activities
39 incidental to such duties; any assistant United States attorney if
40 authorized by the United States attorney for the district of Kansas and
41 while actually engaged in the duties of their employment or any activities
42 incidental to such duties; any assistant attorney general if authorized by
43 the attorney general and while actually engaged in the duties of their

1 employment or any activities incidental to such duties; or any assistant
2 district attorney or assistant county attorney if authorized by the district
3 attorney or county attorney by whom such assistant is employed and
4 while actually engaged in the duties of their employment or any activities
5 incidental to such duties. The provisions of this paragraph shall not apply
6 to any person not in compliance with K.S.A. 2010 Supp. 75-7c19, and
7 amendments thereto.

8 (c) Criminal discharge of a firearm is a class C misdemeanor.

9 Sec. 17. K.S.A. 21-4318 is hereby amended to read as follows: 21-
10 4318. (a) Inflicting harm, disability or death to a police dog, arson dog,
11 assistance dog, game warden dog or search and rescue dog is knowingly
12 and intentionally, and without lawful cause or justification poisoning,
13 inflicting great bodily harm, permanent disability or death, upon a police
14 dog, arson dog, assistance dog, game warden dog or search and rescue
15 dog.

16 (b) As used in this section:

17 (1) "Arson dog" means any dog which is owned, or the service of
18 which is employed, by the ~~state fire marshal~~ *Kansas bureau of*
19 *investigation* or a fire department for the principal purpose of aiding in
20 the detection of liquid accelerants in the investigation of fires.

21 (2) "Assistance dog" has the meaning provided by K.S.A. 2007-
22 2010 Supp. 39-1113, and amendments thereto.

23 (3) "Fire department" means a public fire department under the
24 control of the governing body of a city, township, county, fire district or
25 benefit district or a private fire department operated by a nonprofit
26 corporation providing fire protection services for a city, township, county,
27 fire district or benefit district under contract with the governing body of
28 the city, township, county or district.

29 (4) "Game warden dog" means any dog which is owned, or the
30 service of which is employed, by the department of wildlife and parks for
31 the purpose of aiding in detection of criminal activity, enforcement of
32 laws, apprehension of offenders or location of persons or wildlife.

33 (5) "Police dog" means any dog which is owned, or the service of
34 which is employed, by a law enforcement agency for the principal
35 purpose of aiding in the detection of criminal activity, enforcement of
36 laws or apprehension of offenders.

37 (6) "Search and rescue dog" means any dog which is owned or the
38 service of which is employed, by a law enforcement or emergency
39 response agency for the purpose of aiding in the location of persons
40 missing in disasters or other times of need.

41 (c) Inflicting harm, disability or death to a police dog, arson dog,
42 assistance dog, game warden dog or search and rescue dog is a nonperson
43 felony. Upon conviction of this subsection, a person shall be sentenced to

1 not less than 30 days or more than one year's imprisonment and be fined
2 not less than \$500 nor more than \$5,000. During the mandatory 30 days
3 imprisonment, such offender shall have a psychological evaluation
4 prepared for the court to assist the court in determining conditions of
5 probation. Such conditions shall include, but not be limited to, the
6 completion of an anger management program.

7 (d) This section shall be part of and supplemental to the Kansas
8 criminal code.

9 Sec. 18. K.S.A. 2010 Supp. 31-133 is hereby amended to read as
10 follows: 31-133. (a) The ~~state fire marshal~~ *secretary of administration*
11 shall adopt reasonable rules and regulations, consistent with the
12 provisions of this act, for the safeguarding of life and property from fire,
13 explosion and hazardous materials. Such rules and regulations shall
14 include, but not be limited to the following:

15 (1) The keeping, storage, use, sale, handling, transportation or other
16 disposition of highly flammable materials, including crude petroleum or
17 any of its products, natural gas for use in motor vehicles, and of
18 explosives, including gunpowder, dynamite, fireworks and firecrackers;
19 and any such rules and regulations may prescribe the materials and
20 construction of receptacles and buildings to be used for any of such
21 purposes;

22 (2) the transportation of liquid fuel over public highways in order to
23 provide for the public safety in connection therewith;

24 (3) the construction, maintenance and regulation of exits and fire
25 escapes from buildings and all other places in which people work, live or
26 congregate from time to time for any purpose, including apartment
27 houses, as defined by K.S.A. 31-132a, and amendments thereto. Such
28 rules and regulations shall not apply to buildings used wholly as dwelling
29 houses containing no more than two families;

30 (4) the installation and maintenance of equipment intended for fire
31 control, detection and extinguishment in all buildings and other places in
32 which persons work, live or congregate from time to time for any
33 purpose, including apartment houses as defined by K.S.A. 31-132a, and
34 amendments thereto. Such rules and regulations shall not apply to
35 buildings used wholly as dwelling houses containing no more than two
36 families;

37 (5) requiring administrators of public and private schools and
38 educational institutions, except community colleges, colleges and
39 universities, to conduct at least one fire drill each month at some time
40 during school hours, aside from the regular dismissal at the close of the
41 day's session, and prescribing the manner in which such fire drill is to be
42 conducted;

43 ~~(6) procedures for the reporting of fires and explosions occurring~~

1 within the state and for the investigation thereof;

2 ~~(7) procedures for reporting by health care providers of treatment of~~
3 ~~second and third degree burn wounds involving 20% or more of the~~
4 ~~victim's body and requiring hospitalization of the victim, which reporting~~
5 ~~is hereby authorized notwithstanding any provision of K.S.A. 60-427, and~~
6 ~~amendments thereto, to the contrary;~~

7 ~~(8) (6) requiring administrators of public and private schools and~~
8 ~~educational institutions, except community colleges, colleges and~~
9 ~~universities, to establish tornado procedures, which procedures shall~~
10 ~~provide for at least three tornado drills to be conducted each year at some~~
11 ~~time during school hours, aside from the regular dismissal at the close of~~
12 ~~the day's session, shall describe the manner in which such tornado drills~~
13 ~~are to be conducted, and shall be subject to approval by the state fire~~
14 ~~marshal secretary of administration;~~

15 ~~(9) (7) requiring administrators of community colleges, colleges and~~
16 ~~universities to establish tornado procedures, which procedures shall be~~
17 ~~subject to approval by the director of the disaster agency of the county;~~

18 ~~(10) the development and implementation of a statewide system of~~
19 ~~hazardous materials assessment and response;~~

20 ~~(11) (8) the use of pyrotechnics, pyrotechnic devices and~~
21 ~~pyrotechnic materials; and~~

22 ~~(12) (9) other safeguards, protective measures or means adapted to~~
23 ~~render inherently safe from the hazards of fire or the loss of life by fire~~
24 ~~any building or other place in which people work, live or congregate from~~
25 ~~time to time for any purpose, except buildings used wholly as dwelling~~
26 ~~houses containing no more than two families.~~

27 (b) Any rules and regulations of the ~~state fire marshal secretary of~~
28 ~~administration~~ adopted pursuant to this section may incorporate by
29 reference specific editions, or portions thereof, of nationally recognized
30 fire prevention codes.

31 (c) The rules and regulations adopted pursuant to this section shall
32 allow facilities in service prior to the effective date of such rules and
33 regulations, and not in strict conformity therewith, to continue in service,
34 so long as such facilities are not determined by the ~~state fire marshal~~
35 ~~division of facilities management of the department of administration~~ to
36 constitute a distinct hazard to life or property. Any such determination
37 shall be subject to the appeal provisions contained in K.S.A. 31-140, and
38 amendments thereto.

39 Sec. 19. K.S.A. 2010 Supp. 31-133a is hereby amended to read as
40 follows: 31-133a. (a) No business shall inspect, install or service portable
41 fire extinguishers or automatic fire extinguishers for commercial cooking
42 equipment without first being certified by the ~~state fire marshal~~
43 ~~division of facilities management of the department of administration.~~

1 (b) (1) The ~~state fire marshal~~ *secretary of administration* shall adopt
2 rules and regulations as provided in K.S.A. 31-134, and amendments
3 thereto, establishing standards for inspection, installation, servicing and
4 testing procedures and minimum insurance requirements of businesses
5 inspecting, installing or servicing portable fire extinguishers or automatic
6 fire extinguishers for commercial cooking equipment. The rules and
7 regulations shall also provide for qualifications and training of any person
8 or persons designated by such business as the person or persons upon
9 whose qualifications and training the certification of the business is based
10 and, on and after January 1, 1991, shall require submission of proof,
11 satisfactory to the ~~state fire marshal~~ *secretary*, that such qualifications and
12 training have been met.

13 (2) The rules and regulations shall further provide for annual
14 certification of such businesses for a fee of not less than \$25 or more than
15 \$200 for each certification, but no fee shall be charged for any person
16 who is an officer or employee of the state or political or taxing
17 subdivision thereof when that person is acting on behalf of the state or
18 political or taxing subdivision. If the person or persons upon whose
19 qualifications and training the certification of the business is based leave
20 such business, the certification of that business is void.

21 (3) The ~~state fire marshal~~ *division of facilities management of the*
22 *department of administration* shall remit all moneys received for fees
23 under this section to the state treasurer in accordance with the provisions
24 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
25 remittance, the state treasurer shall deposit the entire amount in the state
26 treasury. The state treasurer shall credit 20% of each such deposit to the
27 ~~state general fund and shall credit the remainder of each such deposit to~~
28 ~~the fire marshal fire prevention fee fund.~~

29 (c) Inspection or service of any portable fire extinguisher or
30 automatic fire extinguisher for commercial cooking equipment by any
31 business who is not certified by the ~~state fire marshal~~ *division of facilities*
32 *management of the department of administration* as required by this
33 section shall constitute a deceptive act or practice under the Kansas
34 consumer protection act and shall be subject to the remedies and penalties
35 provided by such act.

36 (d) As used in this section:

37 (1) "Automatic fire extinguisher for commercial cooking
38 equipment" means any automatic fire extinguisher mounted directly
39 above or in the ventilation canopy of commercial cooking equipment.

40 (2) "Business" means any person who inspects, services or installs
41 portable fire extinguishers or automatic fire extinguishers for commercial
42 cooking equipment, but does not include: (A) Any person or authorized
43 agent of the person who installs a portable fire extinguisher for protection

1 of the person's own property or business; or (B) any individual acting as a
2 representative or employee of a certified business.

3 Sec. 20. K.S.A. 2010 Supp. 31-134 is hereby amended to read as
4 follows: 31-134. (a) Any rules and regulations adopted by the ~~state fire~~
5 ~~marshal~~ *secretary of administration* under this act shall comply with the
6 provisions of K.S.A. 77-415 et seq., and amendments thereto, except that:

7 (1) In addition to the method of providing notice of the public
8 hearing prescribed by K.S.A. 77-421, and amendments thereto, such
9 notice shall be published three times in at least two newspapers of general
10 circulation, with the last published notice to appear not less than 15 days
11 prior to the public hearing; ;

12 (2) the ~~state fire marshal~~ *division of facilities management of the*
13 *department of administration* shall make available for general distribution
14 upon request copies of any nationally recognized code adopted by
15 reference, marked so as to indicate the provisions thereof which have
16 been so adopted. The ~~state fire marshal~~ *division of facilities management*
17 *of the department of administration* may charge a fee for the copies in an
18 amount equal to the cost of the copies and their distribution. Upon
19 collection of any such fees, the ~~state fire marshal~~ *division of facilities*
20 *management of the department of administration* shall remit to the state
21 treasurer such fees in accordance with the provisions of K.S.A. 75-4215,
22 and amendments thereto. The state treasurer shall deposit the entire
23 amount in the state treasury. The state treasurer shall credit ~~20% of each~~
24 ~~such deposit to the state general fund and shall credit the remainder of~~
25 ~~each such deposit to the fire marshal fire prevention fee fund; ; and~~

26 (3) in addition to the filing requirements of K.S.A. 77-416, and
27 amendments thereto, the ~~state fire marshal~~ *division of facilities*
28 *management of the department of administration* shall publish all such
29 rules and regulations and make the same available for distribution to the
30 general public upon request, but the ~~fire marshal~~ *division of facilities*
31 *management of the department of administration* shall not be required to
32 republish the provisions of any nationally recognized code adopted by
33 reference if such provisions are made available for general distribution
34 upon request to the ~~fire marshal's office.~~ *division of facilities*
35 *management of the department of administration.*

36 (b) The rules and regulations adopted by the ~~state fire marshal~~
37 *secretary of administration* under authority of this act shall be known and
38 may be cited as the Kansas fire prevention code. Such rules and
39 regulations shall have uniform force and effect throughout the state. No
40 municipality shall enact or enforce any ordinance, resolution or rule or
41 regulation inconsistent therewith, except that nothing in this act shall be
42 construed to impair the power of any municipality to regulate the use of
43 land by zoning or fire district regulations or to prohibit or regulate the

1 sale, handling, use or storage of fireworks within its boundaries.
2 Whenever a question shall arise as to whether another state statute or an
3 enactment of a municipality is inconsistent with the provisions of the fire
4 prevention code, it shall be the duty of the ~~state fire marshal~~ *secretary of*
5 *administration* to make such determination after a hearing thereon with
6 all interested parties conducted in accordance with the provisions of the
7 Kansas administrative procedure act. Any action of the ~~state fire marshal~~
8 *division of facilities management of the department of administration or*
9 *the secretary of administration* pursuant to this section is subject to
10 review in accordance with the Kansas judicial review act.

11 Sec. 21. K.S.A. 31-134a is hereby amended to read as follows: 31-
12 134a. (a) A building shall be deemed to comply with the Kansas fire
13 prevention code if the building conforms to one of the following building
14 codes, has been issued a certificate of occupancy and conforms to any
15 special requirements of the Kansas fire prevention code which are not
16 covered by such building code:

17 (1) The 1976 or 1979 edition of the uniform building code;

18 (2) the 1975 or 1978 edition of the basic building code (B.O.C.A.);

19 (3) the 1976 or 1979 edition of the standard building code (also
20 known as the southern standard building code); or

21 (4) the 2000 edition of the international building code.

22 (b) The ~~state fire marshal~~ *secretary of administrartion* shall adopt
23 rules and regulations specifying those subsequent editions of the codes
24 enumerated in subsection (a) and those editions of other nationally
25 recognized building codes which the ~~state fire marshal~~ *secretary* has
26 determined provide protection equivalent to that of the Kansas fire
27 prevention code.

28 (c) This section shall be part of and supplemental to K.S.A. 31-132
29 to 31-150, inclusive, and K.S.A. 31-150a, and amendments thereto.

30 Sec. 22. K.S.A. 31-135 is hereby amended to read as follows: 31-
31 135. Whenever it is deemed necessary, the ~~state fire marshal~~ *secretary of*
32 *administration* may appoint an advisory committee or committees to
33 assist in the formulation and revision of the state fire prevention code ~~and~~
34 ~~in the establishment of standards for certification of members of fire~~
35 ~~departments to make arrests, carry firearms and conduct searches and~~
36 ~~seizures pursuant to K.S.A. 31-157.~~ Any such advisory committee shall
37 serve without compensation. The membership of the advisory committee
38 or committees shall be selected on the basis of their individual expertise
39 and knowledge in the area of fire prevention under consideration.

40 Sec. 23. K.S.A. 31-136 is hereby amended to read as follows: 31-
41 136. The ~~state fire marshal~~ *division of facilities management of the*
42 *department of administration* shall have the power to grant exemptions
43 from the application of specific requirements of regulations promulgated

1 pursuant to this act. Any such exemption shall be granted only upon
2 written request which clearly demonstrates that the enforcement of a
3 specific requirement of a rule or regulation will cause unnecessary
4 hardship to the petitioner, or that such exemption is necessary for the
5 petitioner to take advantage of new methods or equipment of recognized
6 adequacy which conforms to fundamental safety standards. The
7 particulars of any exemption so granted shall be set forth in writing, and a
8 copy thereof shall be retained in the ~~office of the state fire marshal~~
9 *division of facilities management of the department of administration*.

10 Sec. 24. K.S.A. 2010 Supp. 31-137 is hereby amended to read as
11 follows: 31-137. The ~~state fire marshal, deputies of the fire marshal~~
12 *division of facilities management of the department of administration*, the
13 chief of any organized fire department of any municipality, whether such
14 fire department is regular or volunteer, or any member of any such fire
15 department who has been duly authorized by the chief thereof, shall
16 enforce the provisions of this act and any rules and regulations adopted
17 pursuant thereto. ~~Such persons are authorized to make any investigations~~
18 ~~deemed necessary of any fire or explosion occurring within this state.~~
19 ~~Such persons shall make an investigation of any fire or explosion~~
20 ~~occurring within this state, or an attempt to cause any fire or explosion~~
21 ~~within this state, if there is reason to believe that the fire was of an~~
22 ~~inecendiary origin or was an attempt to defraud an insurance company. In~~
23 ~~addition, the chief of any organized fire department of any municipality~~
24 ~~may designate other qualified persons to conduct such investigations in~~
25 ~~such municipality. In order to carry out such investigations, the state fire~~
26 ~~marshal and those persons designated by or authorized to be designated~~
27 ~~by this section shall have the right and authority at all times of day or~~
28 ~~night to enter upon or examine, in accordance with existing laws and~~
29 ~~regulations, any building or premises where any fire or explosion or~~
30 ~~attempt to cause a fire or explosion has occurred. Such persons shall~~
31 ~~make a written report of the findings of any investigation conducted~~
32 ~~pursuant to this section which shall be filed in the office of the state fire~~
33 ~~marshal.~~

34 Sec. 25. K.S.A. 31-139 is hereby amended to read as follows: 31-
35 139. The ~~state fire marshal~~ *division of facilities management of the*
36 *department of administration* and those persons designated in K.S.A. 31-
37 137, ~~and amendments thereto~~, shall have the authority during all
38 reasonable hours of operation to enter, in accordance with existing laws,
39 in and upon all buildings and premises subject to this act for the purpose
40 of examination; ~~and inspection and investigation~~ to determine compliance
41 with the rules and regulations promulgated under the authority of this act.
42 Whenever the ~~state fire marshal~~ *division of facilities management of the*
43 *department of administration* or any person designated in K.S.A. 31-137,

1 *and amendments thereto*, finds any violation of this act ~~or the act of~~
2 ~~which this section is amendatory~~, or of any of the rules or regulations
3 issued thereunder, or any lawful order issued pursuant thereto, ~~he~~ *the*
4 *division of facilities management of the department of administration or*
5 *such person* may file a criminal complaint with the attorney general or the
6 proper district or county attorney, or ~~he~~ may issue an order to the owner
7 or ~~his~~ *such owner's* agent to cease and desist such violations. Any order
8 so issued may be appealed by any person aggrieved thereby, as provided
9 in K.S.A. 31-140, *and amendments thereto*, but unless otherwise stated in
10 the order, the filing or pendency of such appeal shall not abate or operate
11 as a stay of the effect of such order.

12 Sec. 26. K.S.A. 2010 Supp. 31-140 is hereby amended to read as
13 follows: 31-140. Any person aggrieved by any order or ruling issued
14 pursuant to the provisions of this act may appeal such order or ruling to
15 ~~the state fire marshal~~ *division of facilities management of the department*
16 *of administration* within 15 days from the date of the service of such
17 order by filing a notice of such appeal in the ~~office of the state fire~~
18 ~~marshal~~ *division of facilities management of the department of*
19 *administration*. The ~~state fire marshal~~ *division of facilities management*
20 *of the department of administration* or a presiding officer from the office
21 of administrative hearings shall hear such person within 30 days after the
22 receipt of such notice of appeal, and the hearing shall be held in
23 accordance with the provisions of the Kansas administrative procedure
24 act. The ~~state fire marshal~~ *division of facilities management of the*
25 *department of administration* shall file a decision thereon and, unless by
26 authority of the ~~state fire marshal~~ *secretary of administration* the order is
27 revoked or modified, the order shall be complied with within the time
28 fixed in such decision.

29 Sec. 27. K.S.A. 31-141 is hereby amended to read as follows: 31-
30 141. (a) Whenever the ~~state fire marshal or the state fire marshal's~~
31 ~~authorized representative~~ *division of facilities management of the*
32 *department of administration* is authorized to conduct a hearing under the
33 provisions of K.S.A. ~~31-138~~ *31-140*, and amendments thereto, the ~~state~~
34 ~~fire marshal~~ *division of facilities management of the department of*
35 *administration* shall have the power to administer oaths, examine and
36 cross-examine witnesses, receive oral and documentary evidence, and
37 shall have the power to subpoena witnesses, compel their attendance, and
38 require the production of books, papers, records, correspondence or other
39 documents which are deemed relevant to the inquiry. The ~~state fire~~
40 ~~marshal~~ *division of facilities management of the department of*
41 *administration* at such hearing may, and upon the request of any party
42 shall, cause to be made a stenographic record of all the evidence and all
43 the proceedings had at such hearing. If no stenographic record is made

1 and if a judicial review is sought, the ~~state fire marshal~~ *division of*
2 *facilities management of the department of administration* shall prepare a
3 statement of the evidence and proceedings for use on review. In case of a
4 refusal of any person to comply with any subpoena issued hereunder or to
5 testify with respect to any matter concerning which such person may be
6 lawfully interrogated, the district court of Shawnee county or the county
7 wherein such party resides, on application of the ~~state fire marshal~~
8 *division of facilities management of the department of administration*,
9 may issue an order requiring such person to comply with such subpoena
10 and to testify. Any failure to obey any such order of the court may be
11 punished by the court as a contempt thereof. Nothing contained in this act
12 shall require the observance at any such hearing of formal rules of
13 pleading or evidence. Notice of such hearings and any other process
14 caused to be issued by the ~~state fire marshal~~ *division of facilities*
15 *management of the department of administration* shall be served in
16 substantial compliance with the requirements for service of process in
17 district court.

18 (b) Whenever any person shall appeal an order or ruling issued
19 pursuant to the provisions of this act, as provided in K.S.A. 31-140, and
20 amendments thereto, and if after a hearing the decision of the ~~state fire~~
21 ~~marshal~~ *division of facilities management of the department of*
22 *administration* is adverse to such person, the costs of the hearing,
23 including witness fees, shall be taxed to such person.

24 Sec. 28. K.S.A. 2010 Supp. 31-142 is hereby amended to read as
25 follows: 31-142. Any action of the ~~state fire marshal~~ *division of facilities*
26 *management of the department of administration* pursuant to K.S.A. 31-
27 140, and amendments thereto, is subject to review in accordance with the
28 Kansas judicial review act.

29 Sec. 29. K.S.A. 31-143 is hereby amended to read as follows: 31-
30 143. (a) The ~~state fire marshal~~ *division of facilities management of the*
31 *department of administration* shall be authorized to advise, assist and
32 coordinate with the state civil defense director in the development of civil
33 defense or disaster plans, and on request shall assist any municipality in
34 the enforcement of the state fire prevention code. ~~He~~ *The division of*
35 *facilities management of the department of administration* shall have the
36 responsibility for the implementation of any fire safety programs
37 developed by the ~~state fire marshal~~ *division of facilities management of*
38 *the department of administration* and designed to minimize fire hazards
39 and disasters in loss of life and property from these causes. Such
40 responsibilities shall include, but are not limited to, the establishment and
41 enforcement of fire safety practices throughout the state; , preventive
42 inspection and correction activities; , coordination of fire safety programs
43 with volunteer and paid fire companies, other state agencies and

1 municipalities, and the ~~state fire marshal~~ *division of facilities*
2 *management of the department of administration* shall analyze and
3 evaluate Kansas fire loss statistics in order to make a determination of the
4 problems.

5 (b) The ~~state fire marshal~~ *division of facilities management of the*
6 *department of administration* upon request shall assist the chief of any
7 recognized fire company or department, any legally designated fire
8 marshal of a municipality and the personnel of other state agencies in fire
9 prevention matters.

10 Sec. 30. K.S.A. 2010 Supp. 31-144 is hereby amended to read as
11 follows: 31-144. (a) As used in this act, "school building" means any
12 building or structure operated or used for any purpose by, or located upon
13 the land of, any school district, community college district, area
14 vocational school, area vocational-technical school, institution under the
15 state board of regents or any private or nonpublic school, college or
16 university, whether or not operated for profit. The term school building
17 does not include within its meaning any single-family dwelling or duplex
18 constructed as part of a vocational education program or construction
19 trades class if such single-family dwelling or duplex is to be sold, after its
20 construction, for private use.

21 (b) All school buildings shall be inspected at least once each year. In
22 all cities of the first and second class in which there is a full-time fire
23 chief or full-time fire inspector, the inspection of the school buildings
24 shall be conducted by such chief or inspector. The chief or inspector shall
25 report the findings from the inspection to the ~~state fire marshal~~ *division of*
26 *facilities management of the department of administration* within 30 days
27 after such inspection. In all other cases, school buildings shall be
28 inspected by the ~~state fire marshal or the fire marshal's authorized~~
29 ~~assistants.~~ *division of facilities management of the department of*
30 *administration.*

31 (c) The ~~state fire marshal~~ *division of facilities management of the*
32 *department of administration* shall order the governing body having
33 control of any school building or facility thereof to correct any condition
34 in such building or facility which is in violation of this act, or any
35 condition which the ~~fire marshal~~ *division of facilities management of the*
36 *department of administration* deems dangerous, or which in any way
37 prevents a speedy exit from such building. After any such order is
38 rendered, such governing body shall make the changes required to
39 comply therewith. A board of education of any school district is hereby
40 authorized to make expenditures from its general fund or capital outlay
41 fund to comply with such order, or the board may issue no-fund warrants
42 in such amounts as are necessary to pay expenses incurred in complying
43 with such order. Such no-fund warrants shall be issued, registered, paid

1 and redeemed and bear interest as provided by K.S.A. 79-2940, and
2 amendments thereto, except that the approval of the state court of tax
3 appeals shall not be required. Such warrants shall recite that they are
4 issued by the board of education of the school district under authority of
5 this act. Any board of education issuing warrants hereunder shall make a
6 tax levy at the same time as other tax levies are made, after such warrants
7 are issued, sufficient to pay such warrants and the interest thereon.

8 (d) Whenever a board of education receives an order from the ~~state~~
9 ~~fire marshal~~ *division of facilities management of the department of*
10 *administration* pursuant to subsection (c), the board, in lieu of repairing
11 or remodeling the school building or facility as ordered by the ~~state fire~~
12 ~~marshal~~ *division of facilities management of the department of*
13 *administration*, may close such building or facility as an attendance
14 center. Whenever any board of education finds that any such order of the
15 ~~state fire marshal~~ *division of facilities management of the department of*
16 *administration* involves a cost in excess of that which the board of
17 education finds the school district can afford, or that the changes ordered
18 are unwarranted or unnecessary, the board may petition for review of
19 such order in the district court of the home county of such school district.
20 Upon receiving such petition, the district court shall appoint three
21 disinterested commissioners, one of whom shall be a licensed architect.
22 The commissioners shall inspect the building or facility affected by the
23 order and report to the court its findings of fact as to the necessity for the
24 improvements or changes ordered by the ~~state fire marshal~~ *division of*
25 *facilities management of the department of administration*, together with
26 the estimated cost of each such improvement or change and such other
27 recommendations as the commissioners deem advisable. Upon receiving
28 such findings of fact and recommendations, or any other evidence
29 relating to the petition for review, the court shall enter its order affirming,
30 reversing or modifying the order of the ~~state fire marshal~~ *division of*
31 *facilities management of the department of administration*. Such order of
32 the court may be reviewed by the appellate courts in the same manner as
33 other orders and judgments of the district court may be reviewed.

34 (e) Except as provided in subsection (d), any action of the ~~state fire~~
35 ~~marshal~~ *division of facilities management of the department of*
36 *administration* pursuant to this section is subject to review in accordance
37 with the Kansas judicial review act.

38 Sec. 31. K.S.A. 31-146 is hereby amended to read as follows: 31-
39 146. The rules and regulations promulgated by the ~~state fire marshal~~
40 *secretary of administration* for transporting liquid fuel shall require that
41 the vehicles used in such transportation be inspected by qualified
42 inspectors sufficiently often to insure operation with maximum safety,
43 and the operator of any such vehicle which is subject to the jurisdiction of

1 the state corporation commission shall file with the commission copies of
2 all such inspector's clearance receipts for such vehicles. The inspections
3 required herein shall be performed by inspectors in the ~~state fire marshal's~~
4 ~~office~~ *division of facilities management of the department of*
5 *administration*, except that the ~~state fire marshal~~ *division of facilities*
6 *management of the department of administration* may issue a private
7 inspector's permit to any person having registered in ~~his~~ *such person's*
8 name in this state one (+) or more vehicles used for transporting liquid
9 fuel, if such person maintains inspection facilities and personnel qualified
10 to perform the inspection to the satisfaction of the ~~state fire marshal's~~
11 ~~office~~. *division of facilities management of the department of*
12 *administration*.

13 Sec. 32. K.S.A. 31-147 is hereby amended to read as follows: 31-
14 147. Hotels, motels, rooming houses, apartment houses, adult care homes,
15 child care facilities, hospitals, adult boarding homes and restaurants shall
16 comply with the rules and regulations promulgated by the ~~state fire~~
17 ~~marshal~~ *secretary of administration* for such occupancies.

18 Sec. 33. K.S.A. 31-148 is hereby amended to read as follows: 31-
19 148. The ~~state fire marshal~~ *division of facilities management of the*
20 *department of administration* at least annually shall inspect all buildings
21 under the jurisdiction of the state penal director and the division of
22 institutional management of the department of social welfare.

23 Sec. 34. K.S.A. 2010 Supp. 31-150 is hereby amended to read as
24 follows: 31-150. (a) Except as otherwise provided in this section, the
25 construction, reconstruction or renovation of school buildings shall
26 comply with the requirements of the 2000 edition of the international
27 building code as published by the international codes council. All electric
28 wiring shall conform to requirements of the 1999 issue of the national
29 electric code of the national fire protection association.

30 (b) The construction, reconstruction or renovation of mobile,
31 modular, portable or relocatable school buildings shall conform to the
32 requirements of the 2000 edition of the life safety code as published by
33 the national fire protection association.

34 (c) The construction, reconstruction or renovation of all school
35 buildings shall conform to the provisions for making buildings and
36 facilities accessible to, and usable by, persons with a disability, as
37 required by K.S.A. 58-1301 through 58-1311, and amendments thereto.

38 (d) No contract shall be let for the construction, reconstruction or
39 renovation of any school building, and it shall be illegal to pay out any
40 public funds for the construction, reconstruction or renovation of a school
41 building unless the plans for such building bear the seal of an architect or
42 a professional engineer licensed by the state board of technical
43 professions of the state of Kansas certifying that the plans meet the

1 applicable requirements of this act.

2 (e) The provisions of subsections (c) and (d) shall not apply to any
3 building or structure operated or used for any purpose by, or located upon
4 the land of any community college, technical college, municipal
5 university, institution under the governance of the state board of regents
6 or other institutions of post secondary education as defined by K.S.A. 74-
7 3249, and amendments thereto. Prior to construction, reconstruction or
8 renovation of a building or structure, all community colleges, technical
9 colleges, any municipal university, institutions under the governance of
10 the state board of regents or other institutions of post secondary education
11 as defined by K.S.A. 74-3249, and amendments thereto, shall submit to
12 the ~~state fire marshal~~ *division of facilities management of the department*
13 *of administration* a code footprint for evaluation and approval of the
14 fire/life safety features of such building or structure.

15 (f) The relocation of school buildings to which the provisions of
16 subsection (b) apply shall not be construed to be construction or
17 reconstruction under the provisions of this section.

18 (g) The ~~state fire marshal~~ *secretary of administration* shall adopt
19 rules and regulations specifying those subsequent editions of the codes
20 enumerated in subsections (a) and (b) which the ~~state fire marshal~~
21 *secretary* has determined provide protection equivalent to those editions
22 specified herein. Compliance with any subsequent edition specified by
23 such rules and regulations shall be considered compliance with the
24 edition of the code specified by this section.

25 Sec. 35. K.S.A. 31-150a is hereby amended to read as follows: 31-
26 150a. (a) *It shall be unlawful for any person who violates to knowingly*
27 *violate any provision of this act or the act of which this act is amendatory,*
28 *or who violates , any rule or regulation adopted pursuant thereto; or who*
29 *violates any lawful order issued by the state fire marshal division of*
30 *facilities management of the department of administration or by any of*
31 *the persons designated in K.S.A. 31-137, and amendments thereto, shall*
32 *be guilty of.*

33 (b) *Such violation is a class B misdemeanor, and .*

34 (c) Each day that the offense continues after receipt of written notice
35 thereof issued by the ~~state fire marshal~~ *division of facilities management*
36 *of the department of administration*, or by any other person designated in
37 K.S.A. 31-137, and amendments thereto, shall constitute a separate
38 violation.

39 (d) Notice of any such violation may be sent to the responsible party
40 by restricted mail, as defined in K.S.A. 60-103, and amendments thereto,
41 but refusal of the addressee to receive such notice shall constitute receipt
42 thereof, or such notice may be served personally on the responsible party
43 by the ~~state fire marshal or the state fire marshal's deputies.~~ *division of*

1 *facilities management of the department of administration.*

2 ~~(b)~~ (e) At the request of the ~~state fire marshal~~ *division of facilities*
3 *management of the department of administration* or any other person
4 designated in K.S.A. 31-137, and amendments thereto, the attorney
5 general or the ~~proper~~ district or county attorney *for the county in which*
6 *the violation occurs* may obtain an injunction to restrain any violation
7 designated in subsection (a), where such violation is a continuing offense
8 or where it constitutes an immediate hazard to life or property. The
9 application for an injunction pursuant to this subsection shall be made to
10 the district court of the county in which the violation occurs, and any
11 such injunction shall be governed by the provisions of article 9 of chapter
12 60 of the Kansas Statutes Annotated, *and amendments thereto.*

13 Sec. 36. K.S.A. 31-155 is hereby amended to read as follows: 31-
14 155. (a) Except as provided in subsection (c):

15 (1) It shall be unlawful to sell, offer to sell, or to possess with intent
16 to sell or offer for sale a bottle rocket; and

17 (2) it shall be unlawful to ignite, fire, set-off or otherwise use a
18 bottle rocket.

19 ~~(b) Any person violating the provisions of subsection (a) shall be~~
20 ~~guilty of Violation of this section is~~ an unclassified misdemeanor
21 punishable by a fine of not more than \$100.

22 (c) The provisions of this section shall not prohibit the possession or
23 transportation of bottle rockets by a manufacturer or wholesaler thereof
24 for sale outside this state if such manufacturer or wholesaler is currently
25 registered with the ~~state fire marshal~~ *division of facilities management of*
26 *the department of administration* pursuant to K.S.A. 31-156, *and*
27 *amendments thereto.*

28 (d) As used in this ~~aet~~ *section*, "bottle rocket" means any
29 pyrotechnic device which:

30 (1) Is classified as a class C explosive by the United States
31 department of transportation under 49 C.F.R. 173.100 (1977);

32 (2) is mounted on a stick or wire; and

33 (3) projects into the air when ignited, with or without reports, and
34 includes any device with the same configuration, with or without reports,
35 which may be classified as a pipe or trough rocket. "Bottle rocket" does
36 not include helicopter-type rockets.

37 Sec. 37. K.S.A. 31-156 is hereby amended to read as follows: 31-
38 156. (a) Any person who manufactures bottle rockets or sells bottle
39 rockets at wholesale and who desires to possess or transport any bottle
40 rockets in this state for the purpose of selling the same outside this state
41 shall register annually with the ~~state fire marshal~~ *division of facilities*
42 *management of the department of administration.* Such registration shall
43 entitle the manufacturer or wholesaler to possess and transport bottle

1 rockets in this state for the purpose of selling the same outside this state
2 for a period of one year from the date of registration.

3 (b) The ~~state fire marshal~~ *secretary of administration* shall prescribe
4 by rules and regulations the form of the registration required by
5 subsection (a), which form shall require such information of each
6 registrant as necessary to enforce the provisions of K.S.A. 31-155, *and*
7 *amendments thereto*.

8 Sec. 38. K.S.A. 2010 Supp. 31-159 is hereby amended to read as
9 follows: 31-159. (a) In addition to any other penalty provided by law, the
10 ~~state fire marshal~~ *division of facilities management of the department of*
11 *administration*, upon finding that any person has violated the provisions
12 of the Kansas fire prevention code, may impose a penalty not to exceed
13 \$1,000, which shall constitute an actual and substantial economic
14 deterrent to the violation for which the penalty is assessed.

15 (b) No penalty shall be imposed pursuant to this section except upon
16 the written order of the ~~state fire marshal~~ *division of facilities*
17 *management of the department of administration* to the person who
18 committed the violation. The order shall state the violation, the penalty
19 imposed and the right to appeal to the ~~state fire marshal~~ *division of*
20 *facilities management of the department of administration*. Any such
21 person, within 30 days after service of such order, may make written
22 request to the ~~fire marshal~~ *division of facilities management of the*
23 *department of administration* for a hearing thereon. The ~~fire marshal~~
24 *division of facilities management of the department of administration*
25 shall conduct a hearing in accordance with the provisions of the Kansas
26 administrative procedure act within 30 days after receipt of such request.

27 (c) Any person aggrieved by any order issued pursuant to this
28 section may appeal such order in accordance with the provisions of the
29 Kansas judicial review act.

30 (d) All moneys received from penalties imposed pursuant to this
31 section shall be remitted to the state treasurer in accordance with the
32 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
33 each such remittance, the state treasurer shall deposit the entire amount in
34 the state treasury to the credit of the state general fund.

35 (e) If a fire safety inspection is required to meet licensing
36 requirements of a state agency, the ~~state fire marshal~~ *division of facilities*
37 *management of the department of administration*, before imposing a
38 penalty pursuant to this section, shall make written request to the state
39 licensing agency to take appropriate action to require compliance with the
40 Kansas fire prevention code. If the state licensing agency fails to take
41 such action within 60 days after receipt of ~~the state fire marshal's~~ *such*
42 *notice*, the ~~state fire marshal~~ *division of facilities management of the*
43 *department of administration* may impose a penalty as provided by this

1 section.

2 Sec. 39. K.S.A. 31-165 is hereby amended to read as follows: 31-
3 165. The ~~state fire marshal~~ *Kansas department of emergency*
4 *management of the office of the adjutant general* may provide a toll-free
5 telephone number where persons may call the ~~state fire marshal~~ *Kansas*
6 *department of emergency management of the office of the adjutant*
7 *general* to request a response to a hazardous materials incident.

8 Sec. 40. K.S.A. 2010 Supp. 31-170 is hereby amended to read as
9 follows: 31-170. (a) As used in this section:

10 (1) "Place of public assembly" means a building or structure with an
11 occupancy capacity of 50 or more.

12 (2) "Pyrotechnics" mean any controlled exothermic chemical
13 reactions that are timed to create the effects of heat, gas, sound,
14 dispersion of aerosols, emission of visible electromagnetic radiation or a
15 combination of these effects to provide the maximum effect from the least
16 volume for entertainment purposes.

17 (3) "Pyrotechnic device" means any device which contains
18 pyrotechnic material and which is capable of producing a visual or
19 audible effect for entertainment purposes.

20 (4) "Pyrotechnic material" means a chemical mixture used to
21 produce visible or audible effects by combustion for entertainment
22 purposes.

23 (b) (1) Except as provided by this section, the use of any
24 pyrotechnics, pyrotechnic device or pyrotechnic material is prohibited in
25 any building which is a place of public assembly.

26 (2) The use of pyrotechnics, pyrotechnic devices or pyrotechnic
27 materials in violation of this section or any rules and regulations adopted
28 pursuant to this section or any ordinance or resolution prohibiting or
29 restricting such use shall constitute a common nuisance.

30 (c) The provisions of subsection (b) shall not apply to:

31 (1) Any building in which there has been installed an automatic
32 sprinkler system which is adequate for suppression of a fire in the
33 building or structure and such system is functioning properly;

34 (2) any building in which the interior and exterior walls and ceilings
35 are constructed with or consist of fire-restrictive materials;

36 (3) candles that are securely supported on noncombustible bases and
37 if the candle flame is protected;

38 (4) any other building, structure or use exempted by rules and
39 regulations adopted by the ~~state fire marshal~~ *secretary of administration*.

40 (d) The ~~state fire marshal~~ *secretary of administration* shall adopt any
41 rules and regulations necessary to implement the provisions of this
42 section.

43 (e) Nothing in this section shall be construed as limiting the powers

1 of cities and counties to regulate or restrict the use of pyrotechnics,
2 pyrotechnic devices or pyrotechnic materials.

3 Sec. 41. K.S.A. 31-402 is hereby amended to read as follows: 31-
4 402. As used in this act, unless the context requires otherwise, the
5 following words and phrases shall have the meanings ascribed to them in
6 this section.

7 (a) "Authorized agencies" means:

8 ~~(1) The office of state fire marshal;~~

9 ~~(2) (1) The office of the attorney general of Kansas;~~

10 ~~(3) (2) the office of a district or county attorney;~~

11 ~~(4) (3) all law enforcement agencies; and~~

12 ~~(5) (4) all official fire fighting agencies; and .~~

13 Solely for the purposes of *subsection (a) of K.S.A. 31-403(a)* , *and*
14 *amendments thereto*, "authorized agencies" also means:

15 ~~(6) (5) The federal bureau of investigation or any other federal~~
16 ~~agency; and~~

17 ~~(7) (6) the United States attorney's office.~~

18 (b) "Relevant" means information having any tendency to make the
19 existence of any fact that is of consequence to the investigation or
20 determination of the issue more probable or less probable than it would
21 be without the evidence.

22 (c) Material will be "deemed important;" if, within the sole
23 discretion of the "authorized agency," such material is requested by that
24 "authorized agency."

25 (d) "Action" shall include nonaction or the failure to take action.

26 (e) "Immune," as used in *subsection (e) of K.S.A. 31-403(e)* and 31-
27 404, *and amendments thereto*, shall mean that a civil action may not arise
28 from any action taken pursuant to K.S.A. 31-403 and 31-404, *and*
29 *amendments thereto*, in the absence of gross negligence, bad faith, malice
30 or fraud on the part of an individual, insurance company, or person acting
31 in its behalf, or authorized agency.

32 (f) "Insurance company" includes the Kansas fair plan.

33 Sec. 42. K.S.A. 2010 Supp. 31-501 is hereby amended to read as
34 follows: 31-501. (a) K.S.A. 2010 Supp. 31-501 through 31-506, and
35 amendments thereto, shall be known and may be cited as the "Kansas
36 fireworks act."

37 (b) This act shall be administered by the ~~state fire marshal~~: *division*
38 *of facilities management*.

39 Sec. 43. K.S.A. 2010 Supp. 31-502 is hereby amended to read as
40 follows: 31-502. As used in this act, unless the context otherwise
41 requires:

42 (a) "Licensed display fireworks operator" means a person licensed to
43 operate an outdoor display of display fireworks.

1 (b) "Licensed proximate pyrotechnic operator" means a person
2 licensed to operate indoor or outdoor articles of pyrotechnic.

3 (c) "Manufacturer" means any person engaged in the manufacture of
4 fireworks of any kind in the state of Kansas. Manufacturer shall also
5 include any person engaged in the assembly of consumer fireworks or
6 component parts into a finished item or assortment, but shall not include
7 repackaging finished goods into an assortment.

8 (d) "Distributor" means any person engaged in the distribution of
9 fireworks of any kind in the state of Kansas to include the following:

10 (1) Sells, delivers, transports, consigns, gives, imports, exports or
11 otherwise furnishes consumer fireworks to any person for the purpose of
12 resale to a retailer or any other distributor or reseller within the state of
13 Kansas;

14 (2) sells, intends to sell, ~~offer~~ offers for sale, ~~possess~~ possesses with
15 intent to sell or consigns display fireworks or articles pyrotechnic to any
16 person, distributor, municipality or any other organization within the state
17 of Kansas; or

18 (3) produces, conducts or provides a licensed operator or imports
19 any display fireworks or articles pyrotechnic of any kind within the state
20 of Kansas for profit.

21 (e) "Distributor" shall not include:

22 (1) Anyone who transports fireworks from one state to another state
23 through the state of Kansas and such fireworks ultimate destination is not
24 within the state of Kansas;

25 (2) anyone who sells consumer fireworks during a fireworks season
26 as a seasonal retailer;

27 (3) freight delivery companies or common carriers as defined ~~in~~ by
28 the U.S. department of transportation in 49 C.F.R. 171.8; or

29 (4) an out-of-state person who sells, transports, delivers or gives
30 fireworks to a licensed manufacturer or distributor.

31 (f) "Hobbyist manufacturer" means any person who manufactures
32 consumer fireworks, display fireworks or articles pyrotechnic for their
33 personal use.

34 (g) "Person" means any individual, partnership, firm, company,
35 association, corporation, not-for-profit organization, municipality or
36 limited liability corporation.

37 (h) "Seasonal retailer" means a person who receives consumer
38 fireworks and sells, delivers, consigns, gives or otherwise furnishes
39 consumer fireworks only to the public for their personal use and only
40 during a fireworks season.

41 (i) "Storage" means the safekeeping of fireworks in a warehouse or
42 magazine or comparable appropriate depository. Consumer fireworks that
43 are located at the destination of their retail sale and that are being held in

1 anticipation of retail sale shall not be considered as in storage.

2 (j) "Fireworks season" means a period in time as set forth in the
3 regulations authorized to be adopted by the ~~state fire marshal~~ *secretary*
4 during a calendar year in which seasonal retailers are permitted to sell
5 consumer fireworks to the public.

6 (k) "Fireworks display" means a private or public production of
7 display fireworks or articles pyrotechnic, or both, which are intended for
8 use and designed to produce visible or audible effects for entertainment
9 purposes by combustion, deflagration or detonation.

10 (l) *"Division of facilities management" means the division of*
11 *facilities management of the department of administration.*

12 (m) *"Secretary" means the secretary of administration.*

13 Sec. 44. K.S.A. 2010 Supp. 31-503 is hereby amended to read as
14 follows: 31-503. (a) Any person who intends to sell, offer for sale,
15 possess with intent to sell, any consumer fireworks, display fireworks or
16 articles pyrotechnic or discharge, use, display fireworks or articles
17 pyrotechnic shall first obtain the appropriate license from the ~~state fire~~
18 ~~marshal~~ *division of facilities management*. This shall not include
19 seasonal retailers.

20 (b) The types of license shall be as follows:

- 21 (1) Manufacturer;
22 (2) hobbyist manufacturer;
23 (3) distributor;
24 (4) display fireworks operator; and
25 (5) proximate pyrotechnic operator.

26 (c) Before a license holder may operate, such license holder must
27 satisfy the requirements of this act and *rules and* regulations adopted by
28 the ~~state fire marshal~~ *secretary*.

29 (d) The license holder shall be at least 21 years of age upon applying
30 for a license.

31 (e) Licenses shall not be transferable.

32 (f) Except as otherwise provided in this section, the ~~state fire~~
33 ~~marshal~~ *division of facilities management* shall have the authority to fix,
34 charge and collect fees as follows:

35 (1) A manufacturer license shall be valid for a period of one year.
36 The annual license fee shall not be less than \$400 or more than \$600. A
37 holder of a manufacturer license is not required to have any additional
38 licenses in order to manufacture and sell any fireworks defined by this
39 act.

40 (2) A hobbyist manufacturer license shall be valid for a period of
41 four years. The license fee shall not be less than \$50 or more than \$80.

42 (3) A distributor license shall be valid for a period of one year. The
43 annual fee shall not be less than \$300 or more than \$500.

1 (4) A display fireworks operator license shall be valid for a period of
2 four years. The license fee shall not be less than \$40 or more than \$80.

3 (5) A proximate pyrotechnics operator license shall be valid for a
4 period of four years. The license fee shall not be less than \$40 or more
5 than \$80.

6 (g) A permit to conduct a fireworks display shall be obtained by the
7 sponsor or operator of a fireworks display from and approved by the city
8 or county where the fireworks display is to be discharged.

9 (h) No fee shall be charged for a license or permit under this section
10 for any person who is an officer or employee of the state or any political
11 or taxing subdivision of the state when that person is acting on behalf of
12 the state or political or taxing subdivision.

13 Sec. 45. K.S.A. 2010 Supp. 31-504 is hereby amended to read as
14 follows: 31-504. (a) The owner of any display fireworks storage facility
15 shall obtain a storage site permit from the ~~state fire marshal~~ *division of*
16 *facilities management* for permanent or temporary storage. Storage
17 permits are not required for day boxes used at a display site.

18 (b) A storage site permit shall be valid for a period of four years.
19 The fee for a storage site permit shall not be less than \$25 or more than
20 \$75.

21 Sec. 46. K.S.A. 2010 Supp. 31-505 is hereby amended to read as
22 follows: 31-505. (a) All fees collected pursuant to this act shall be
23 transmitted to the state treasurer in accordance with the provisions of
24 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
25 remittance, the state treasurer shall deposit the entire amount in the state
26 treasury to the credit of the ~~state fire marshal~~ *fire prevention* fee fund.

27 Sec. 47. K.S.A. 2010 Supp. 31-506 is hereby amended to read as
28 follows: 31-506. The ~~fire marshal~~ *secretary* shall have the authority to
29 promulgate rules and regulations to implement and administer the
30 provisions of this act. Any rules and regulations of the ~~state fire marshal~~
31 *secretary* adopted pursuant to this act may incorporate by reference
32 specific editions, or portions thereof, of nationally recognized fire
33 prevention codes. All rules and regulations of the ~~state fire marshal~~
34 *secretary* pertaining to fireworks regulated by this act in existence on the
35 effective date of this act shall continue to be effective until revised,
36 amended, revoked or nullified pursuant to law.

37 Sec. 48. K.S.A. 2010 Supp. 31-602 is hereby amended to read as
38 follows: 31-602. As used in this act:

39 (a) "Agent" means any person authorized by the director to purchase
40 and affix stamps on packages of cigarettes.

41 (b) "Cigarette" means any roll for smoking, whether made wholly or
42 in part of tobacco or any other substance, irrespective of size or shape,
43 and irrespective of tobacco or substance being flavored, adulterated or

1 mixed with any other ingredient, if the wrapper is in greater part made of
2 any material except tobacco.

3 (c) "Director," "retail dealer," "vending machine operator," "sale"
4 and "wholesale dealer" shall have the meanings ascribed thereto in
5 K.S.A. 79-3301, and amendments thereto.

6 (d) "Manufacturer" means:

7 (1) Any entity which manufactures or otherwise produces cigarettes
8 or causes cigarettes to be manufactured or produced anywhere that such
9 manufacturer intends to be sold in this state, including cigarettes intended
10 to be sold in the United States through an importer;

11 (2) the first purchaser anywhere that intends to resell in the United
12 States cigarettes manufactured anywhere that the original manufacturer or
13 maker does not intend to be sold in the United States; or

14 (3) any entity that becomes a successor of an entity described in
15 paragraph (1) or (2).

16 (e) "Quality control and quality assurance program" means the
17 laboratory procedures implemented to ensure that operator bias,
18 systematic and non-systematic methodological errors and equipment-
19 related problems do not affect the results of the testing. Such a program
20 ensures that the testing repeatability remains within the required
21 repeatability values required by K.S.A. 2010 Supp. 31-603, and
22 amendments thereto, for all test trials used to certify cigarettes in
23 accordance with this act.

24 (f) "Repeatability" means the range of values within which the
25 repeat results of cigarette test trials from a single laboratory will fall 95%
26 of the time.

27 (g) "Sell" means to sell, or to offer or agree to do the same.

28 (h) *"Division of facilities management" means the division of*
29 *facilities management of the department of administration.*

30 (i) *"Secretary" means the secretary of administration.*

31 Sec. 49. K.S.A. 2010 Supp. 31-603 is hereby amended to read as
32 follows: 31-603. (a) Except as provided in subsection (h), no cigarettes
33 may be sold or offered for sale in this state or offered for sale or sold to
34 any person located in this state unless the cigarettes have been tested in
35 accordance with the test method and meet the performance standard
36 specified in this section, a written certification has been filed by the
37 manufacturer with the ~~state fire marshal~~ *division of facilities management*
38 in accordance with K.S.A. 2010 Supp. 31-604, and amendments thereto,
39 and the cigarettes have been marked in accordance with K.S.A. 2010
40 Supp. 31-605, and amendments thereto.

41 (b) (1) Testing of cigarettes shall be conducted in accordance with
42 the American society of testing and materials (ASTM) standard E2187-
43 04, "Standard Test Method for Measuring the Ignition Strength of

1 Cigarettes."

2 (2) Testing shall be conducted on 10 layers of filter paper.

3 (3) No more than 25% of the cigarettes tested in a test trial in
4 accordance with this section shall exhibit full-length burns. Forty
5 replicate tests shall comprise a complete test trial for each cigarette tested.

6 (4) The performance standard required by this section shall be
7 applied only to a complete test trial.

8 (5) Written certifications shall be based upon testing conducted by a
9 laboratory that has been accredited pursuant to standard ISO/IEC 17025
10 of the international organization for standardization (ISO) or other
11 comparable accreditation standard required by the ~~state fire marshal~~
12 *division of facilities management*.

13 (6) Laboratories conducting testing in accordance with this section
14 shall implement a quality control and quality assurance program that
15 includes a procedure that will determine the repeatability of the testing
16 results. The repeatability value shall be no greater than 0.19.

17 (7) This section does not require additional testing if cigarettes are
18 tested in a manner which is consistent with this act for any other purpose.

19 (8) Testing performed or sponsored by the ~~state fire marshal~~
20 *division of facilities management* to determine a cigarette's compliance with the
21 performance standard required shall be conducted in accordance with this
22 section.

23 (c) Each cigarette listed in a certification submitted pursuant to
24 K.S.A. 2010 Supp. 31-604, and amendments thereto, that uses lowered
25 permeability bands in the cigarette paper to achieve compliance with the
26 performance standard set forth in this section shall have at least two
27 nominally identical bands on the paper surrounding the tobacco column.
28 At least one complete band shall be located at least 15 millimeters from
29 the lighting end of the cigarette. For cigarettes on which the bands are
30 positioned by design, there shall be at least two bands fully located at
31 least 15 millimeters from the lighting end and 10 millimeters from the
32 filter end of the tobacco column, or 10 millimeters from the labeled end
33 of the tobacco column for non-filtered cigarettes.

34 (d) A manufacturer of a cigarette that the ~~state fire marshal~~
35 *division of facilities management* determines cannot be tested in accordance with
36 the test method prescribed in subsection (b) shall propose a test method
37 and performance standard for the cigarette to the ~~state fire marshal~~
38 *division of facilities management*. Upon approval of the proposed test
39 method and a determination by the ~~state fire marshal~~ *division of facilities*
40 *management* that the performance standard proposed by the manufacturer
41 is equivalent to the performance standard prescribed in subsection (b)(3)
42 of this section, the manufacturer may employ such test method and
43 performance standard to certify such cigarette pursuant to K.S.A. 2010

1 Supp. 31-604, and amendments thereto. If the ~~state fire marshal~~ *division*
2 *of facilities management* determines that another state has enacted
3 reduced cigarette ignition propensity standards that include a test method
4 and performance standard that are the same as those contained in this act,
5 and the ~~state fire marshal~~ *division of facilities management* finds that the
6 officials responsible for implementing those requirements have approved
7 the proposed alternative test method and performance standard for a
8 particular cigarette proposed by a manufacturer as meeting the fire safety
9 standards of that state's law or regulation under a legal provision
10 comparable to this section, then the ~~state fire marshal~~ *division of facilities*
11 *management* shall authorize that manufacturer to employ the alternative
12 test method and performance standard to certify that cigarette for sale in
13 this state, unless the ~~state fire marshal~~ *division of facilities management*
14 demonstrates a reasonable basis why the alternative test should not be
15 accepted under this act. All other applicable requirements of this section
16 shall apply to the manufacturer.

17 (e) Each manufacturer shall maintain copies of the reports of all tests
18 conducted on all cigarettes offered for sale for a period of three years, and
19 shall make copies of these reports available to the ~~state fire marshal~~
20 *division of facilities management* and the attorney general upon written
21 request. Any manufacturer who fails to make copies of these reports
22 available within 60 days of receiving a written request shall be subject to
23 a civil penalty not to exceed \$10,000 for each day after the ~~sixtieth~~ *60th*
24 day that the manufacturer does not make such copies available.

25 (f) The ~~state fire marshal~~ *secretary* may adopt a subsequent ASTM
26 standard test method for measuring the ignition strength of cigarettes
27 upon a finding that such subsequent method does not result in a change in
28 the percentage of full-length burns exhibited by any tested cigarette when
29 compared to the percentage of full-length burns the same cigarette would
30 exhibit when tested in accordance with ASTM standard E2187-04 and the
31 performance standard in subsection (b)(3) of this section.

32 (g) The ~~state fire marshal~~ *division of facilities management* shall
33 review the effectiveness of this section and report every three years to the
34 legislature the ~~state fire marshal's~~ *findings of the division of facilities*
35 *management* and, if appropriate, recommendations for legislation to
36 improve the effectiveness of this act. The report and legislative
37 recommendations shall be submitted no later than June 30 following the
38 conclusion of each three-year period.

39 (h) The requirements of subsection (a) shall not prohibit: (1) A
40 wholesale dealer, retail dealer or vending machine operator from selling
41 their existing inventory of cigarettes on or after July 1, 2009, if the
42 wholesale dealer, retail dealer or vending machine operator can establish
43 that state tax stamps were affixed to such cigarettes prior to July 1, 2009,

1 and if the wholesale dealer, retail dealer or vending machine operator can
2 establish that the inventory was purchased prior to July 1, 2009, in
3 comparable quantity to the inventory purchased during the same period of
4 time in the prior year. In no event may a wholesale dealer, retail dealer or
5 vending machine operator sell or offer for sale a cigarette in this state that
6 does not comply with this act after July 1, 2010; or (2) the sale of
7 cigarettes solely for the purpose of consumer testing. For purposes of this
8 subsection, the term "consumer testing" means an assessment of
9 cigarettes that is conducted by a manufacturer, or under the control and
10 direction of a manufacturer, for the purpose of evaluating consumer
11 acceptance of such cigarettes, utilizing only the quantity of cigarettes that
12 is reasonably necessary for such assessment.

13 (i) The provisions of this section shall take effect and be in force
14 from and after July 1, 2009.

15 Sec. 50. K.S.A. 2010 Supp. 31-604 is hereby amended to read as
16 follows: 31-604. (a) Each manufacturer shall submit to the ~~state fire~~
17 ~~marshal~~ *division of facilities management* a written certification attesting
18 that: (1) Each cigarette listed in the certification has been tested in
19 accordance with K.S.A. 2010 Supp. 31-603, and amendments thereto;
20 and (2) each cigarette listed in the certification meets the performance
21 standard set forth in K.S.A. 2010 Supp. 31-603, and amendments thereto.

22 (b) Each cigarette listed in the certification shall be described with
23 the following information:

- 24 (1) Brand or trade name on the package;
- 25 (2) style, such as lights, ultra lights, or low tar;
- 26 (3) length in millimeters;
- 27 (4) circumference in millimeters;
- 28 (5) flavor, such as menthol, chocolate or other, if applicable;
- 29 (6) filter or nonfilter;
- 30 (7) package description, such as soft pack, box or other;
- 31 (8) the name, address and telephone number of the laboratory, if
32 different than the manufacturer that conducted the test; and
- 33 (9) the date that the testing was conducted.

34 (c) For the purpose of compliance with this section, the ~~state fire~~
35 ~~marshal~~ *division of facilities management* shall accept completed
36 certifications and make the completed certifications available to the
37 attorney general.

38 (d) Each cigarette certified under this section shall be recertified
39 every three years. Initial cigarette certifications may be made at any time.
40 Subsequent certifications shall be made before July 31 of the subsequent
41 certification year.

42 (e) Every manufacturer shall certify cigarettes within the state before
43 the manufacturer, retail dealer, wholesale dealer or vending machine

1 operator legally may offer a manufacturer's cigarette for sale within the
2 state. In order to obtain and maintain a listing on the directory created
3 under subsection (i), a manufacturer shall consent to the jurisdiction of
4 the Kansas courts for the purpose of enforcement of this act and shall
5 appoint a registered agent for service of process in this state and shall
6 identify the agent to the secretary of state.

7 (f) For each cigarette listed in a certification, a manufacturer shall
8 pay to the ~~state fire marshal~~ *division of facilities management* a fee of
9 \$250. The ~~state fire marshal~~ *secretary* may adjust such fee annually, by
10 rule and regulation, to ensure that such fee defrays the actual cost of
11 processing, testing enforcement, administration and oversight activities
12 required by law.

13 (g) There is hereby established in the state treasury a separate,
14 nonlapsing fund to be known as the fire safety standard and firefighter
15 protection act enforcement fund which shall be administered by the ~~state~~
16 ~~fire marshal~~ *division of facilities management*.

17 (h) If a manufacturer has certified a cigarette pursuant to this
18 section, and thereafter makes any change to such cigarette that is likely to
19 alter its compliance with the reduced cigarette ignition propensity
20 standards required by this act, that cigarette shall not be sold or offered
21 for sale in this state until the manufacturer retests the cigarette in
22 accordance with the testing standards set forth in K.S.A. 2010 Supp. 31-
23 603, and amendments thereto, and maintains records of that retesting as
24 required by K.S.A. 2010 Supp. 31-603, and amendments thereto. Any
25 altered cigarette which does not meet the performance standard set forth
26 in K.S.A. 2010 Supp. 31-603, and amendments thereto, may not be sold
27 in this state.

28 (i) Not later than July 31, 2009, the attorney general shall develop a
29 directory of all certified cigarettes under this act. The directory shall be
30 updated as necessary and shall be posted on the attorney general's
31 website. Unless a wholesale dealer, retail dealer or vending machine
32 operator has actual knowledge that cigarettes do not comply with this act,
33 the wholesale dealer, retail dealer or vending machine operator shall
34 consider any cigarette listed on the directory posted on the website to be
35 lawful to sell in this state for the purpose of compliance with this act by
36 such wholesale dealer, retail dealer or vending machine operator.

37 (j) The provisions of this section shall take effect and be in force
38 from and after July 1, 2009.

39 Sec. 51. K.S.A. 2010 Supp. 31-605 is hereby amended to read as
40 follows: 31-605. (a) Cigarettes that are certified by a manufacturer in
41 accordance with K.S.A. 2010 Supp. 31-604, and amendments thereto,
42 shall be marked with the letters "FSC," which signifies fire standards
43 compliant, appearing in eight-point type or larger and permanently

1 printed, stamped, engraved or embossed on the package at or near the
2 UPC code. A manufacturer certifying cigarettes in accordance with
3 K.S.A. 2010 Supp. 31-604, and amendments thereto, shall provide a copy
4 of the certifications to any wholesale dealer and its agents to which the
5 manufacturer sells cigarettes. Any wholesale dealer, agent, retail dealer or
6 vending machine operator shall permit the ~~state fire marshal~~ *division of*
7 *facilities management*, the director, the attorney general, and employees
8 thereof, to inspect cigarette packaging marked in accordance with this
9 section.

10 (b) The provisions of this section shall take effect and be in force
11 from and after July 1, 2009.

12 Sec. 52. K.S.A. 2010 Supp. 31-606 is hereby amended to read as
13 follows: 31-606. (a) A manufacturer, wholesale dealer, agent or any other
14 person or entity who knowingly sells or offers to sell cigarettes, other
15 than through retail sale, that do not meet the performance standard of
16 K.S.A. 2010 Supp. 31-603, and amendments thereto, are not listed on the
17 directory as required by K.S.A. 2010 Supp. 31-604, and amendments
18 thereto, or are not marked in accordance with K.S.A. 2010 Supp. 31-605,
19 and amendments thereto, shall be subject to a civil penalty not to exceed
20 \$500 for each pack of such cigarettes sold or offered for sale provided
21 that in no case shall the penalty against any such person or entity exceed
22 \$100,000 during any ~~thirty-day~~ *30-day* period.

23 (b) A retail dealer or vending machine operator who knowingly sells
24 or offers to sell cigarettes that are not listed on the directory as required
25 by K.S.A. 2010 Supp. 31-604, and amendments thereto, or are not
26 marked in accordance with K.S.A. 2010 Supp. 31-605, and amendments
27 thereto, shall be subject to a civil penalty not to exceed \$500 for each
28 pack of such cigarettes sold or offered for sale, provided that in no case
29 shall the penalty against any retail dealer or vending machine operator
30 exceed \$25,000 for sales or offers to sell during any ~~thirty-day~~ *30-day*
31 period.

32 (c) In addition to any penalty prescribed by law, any corporation,
33 partnership, sole proprietor, limited partnership or association engaged in
34 the manufacture of cigarettes that knowingly makes a false certification
35 pursuant to K.S.A. 2010 Supp. 31-604, and amendments thereto, shall be
36 subject to a civil penalty of at least \$75,000 and not to exceed \$250,000
37 for each such false certification.

38 (d) Any person violating any other provision in this act shall be
39 subject to a civil penalty for a first offense not to exceed \$1,000, and for a
40 subsequent offense subject to a civil penalty not to exceed \$5,000 for
41 each such violation.

42 (e) Any cigarettes that have been sold or offered for sale that do not
43 comply with the performance standard required by K.S.A. 2010 Supp.

1 31-603, and amendments thereto, shall be considered contraband and
2 subject to forfeiture. Cigarettes forfeited pursuant to this section shall be
3 destroyed. Prior to the destruction of any cigarette forfeited pursuant to
4 this subsection, the true holder of the trademark rights in the cigarette
5 brand shall be permitted to inspect the cigarette.

6 (f) In addition to any other remedy provided by law, the ~~state fire~~
7 ~~marshal~~ *division of facilities management* or attorney general may file an
8 action in the district court for a violation of this act, including petitioning
9 for injunctive relief or to recover any costs or damages suffered by the
10 state because of a violation of this act, including enforcement costs
11 relating to the specific violation and attorney's fees. Each violation of this
12 act or of rules or regulations adopted under this act constitutes a separate
13 civil violation for which the ~~state fire marshal~~ *division of facilities*
14 *management* or attorney general may obtain relief.

15 (g) Whenever any law enforcement personnel or duly authorized
16 representative of the ~~state fire marshal~~ *division of facilities management*,
17 director, or attorney general shall discover any cigarettes that have not
18 been marked in the manner required by K.S.A. 2010 Supp. 31-605, and
19 amendments thereto, or for which a certification has not been filed as
20 required by K.S.A. 2010 Supp. 31-604, and amendments thereto, such
21 personnel are hereby authorized and empowered to seize and take
22 possession of such cigarettes with or without process or warrant. Such
23 cigarettes shall be turned over to the division of taxation, and shall be
24 subject to forfeiture proceedings. Cigarettes seized pursuant to this
25 section shall be destroyed. Prior to the destruction of any cigarette seized
26 pursuant to this subsection, the true holder of the trademark rights in the
27 cigarette brand shall be permitted to inspect the cigarettes.

28 (h) Any action taken pursuant to this section is subject to review in
29 accordance with the Kansas judicial review act.

30 (i) The provisions of this section shall take effect and be in force
31 from and after July 1, 2009.

32 Sec. 53. K.S.A. 2010 Supp. 31-607 is hereby amended to read as
33 follows: 31-607. (a) The director, in the regular course of conducting
34 inspections of wholesale dealers, agents, retail dealers or vending
35 machine operators, as authorized under the Kansas cigarette and tobacco
36 products act or other state statutes, rules, or regulations, may inspect such
37 cigarettes to determine if the cigarettes are marked as required by K.S.A.
38 2010 Supp. 31-605, and amendments thereto. If the cigarettes are not
39 marked as required, the director may seize such contraband with or
40 without process or warrant and shall notify the ~~state fire marshal~~. *division*
41 *of facilities management*.

42 (b) The provisions of this section shall take effect and be in force
43 from and after July 1, 2009.

1 Sec. 54. K.S.A. 2010 Supp. 31-608 is hereby amended to read as
2 follows: 31-608. (a) To enforce the provisions of this act, the attorney
3 general, the director and the ~~state fire marshal~~ *division of facilities*
4 *management*, their duly authorized representatives and other law
5 enforcement personnel are hereby authorized to examine the books,
6 papers, invoices and other records of any person in possession, control or
7 occupancy of any premises where cigarettes are placed, stored or offered
8 for sale, as well as the stock of cigarettes on the premises. Every person
9 in the possession, control or occupancy of any premises where cigarettes
10 are placed, stored or offered for sale, is hereby directed and required to
11 give the attorney general, the director and the ~~state fire marshal~~ *division*
12 *of facilities management*, their duly authorized representatives and other
13 law enforcement personnel the means, facilities and opportunity for the
14 examinations authorized by this section.

15 (b) The provisions of this section shall take effect and be in force
16 from and after July 1, 2009.

17 Sec. 55. K.S.A. 2010 Supp. 31-609 is hereby amended to read as
18 follows: 31-609. (a) There is hereby established in the state treasury a
19 separate, nonlapsing fund to be known as the cigarette fire safety standard
20 and firefighter protection act fund which shall be administered by the
21 ~~state fire marshal~~ *division of facilities management*. The fund shall
22 consist of all moneys recovered as penalties under K.S.A. 2010 Supp. 31-
23 606, and amendments thereto. The moneys shall be deposited to the credit
24 of the fund and in addition to any other money made available for such
25 purpose, shall be made available to the state entity responsible for
26 administering the provisions of this act to support fire safety and
27 prevention programs.

28 (b) The provisions of this section shall take effect and be in force
29 from and after July 1, 2009.

30 Sec. 56. K.S.A. 2010 Supp. 31-611 is hereby amended to read as
31 follows: 31-611. Prior to July 1, 2009, the ~~state fire marshal~~ *secretary*
32 may promulgate rules and regulations necessary to effectuate the
33 purposes of this act. Such rules and regulations shall not become effective
34 until July 1, 2009. The ~~state fire marshal~~ *division of facilities*
35 *management*, director and attorney general may take any other action
36 deemed necessary to prepare for the implementation and enforcement of
37 the fire safety standard and firefighter protection act.

38 Sec. 57. K.S.A. 2010 Supp. 31-701 is hereby amended to read as
39 follows: 31-701. This act shall be known and may be cited as the ~~state~~
40 ~~fire marshal~~ *fire prevention* commissioned inspector act.

41 Sec. 58. K.S.A. 2010 Supp. 31-702 is hereby amended to read as
42 follows: 31-702. As used in the ~~state fire marshal~~ *fire prevention*
43 commissioned inspector act:

1 (a) "Building" means any building owned, maintained or controlled
2 by the state board of regents.

3 (b) "Commissioned inspector" means an employee of a state
4 educational institution who has been appointed by the ~~state fire marshal,~~
5 ~~pursuant to K.S.A. 75-3137, and amendments thereto,~~ *secretary of*
6 *administration* to inspect buildings in conjunction with the ~~office of the~~
7 ~~state fire marshal.~~ *division of facilities management.*

8 (c) "Employee" means an employee of a state educational
9 institution.

10 (d) "Local fire authority" means the fire department of the city,
11 county, township or fire district having jurisdiction over the area in
12 which a building is located.

13 (e) "State educational institution" has the meaning ascribed thereto
14 by K.S.A. 76-711, and amendments thereto.

15 (f) ~~"State fire marshal" means the state fire marshal appointed~~
16 ~~pursuant to K.S.A. 75-1510, and amendments thereto.~~ *"Division of*
17 *facilities management" means the division of facilities management of the*
18 *department of administration.*

19 Sec. 59. K.S.A. 2010 Supp. 31-703 is hereby amended to read as
20 follows: 31-703. The ~~state fire marshal~~ *division of facilities management*
21 and any state educational institution may enter into an agreement under
22 which employees of the state educational institution are commissioned by
23 the ~~state fire marshal~~ *division of facilities management* to inspect
24 buildings. Such agreements shall include provisions relating to:

25 (a) The scope of the powers, duties and functions of commissioned
26 inspectors and any limitations on such powers, duties and functions.

27 (b) The procedures that will be followed by commissioned
28 inspectors in conducting inspections and reporting the results of such
29 inspections.

30 (c) Subject to K.S.A. 2010 Supp. 31-704, and amendments thereto,
31 the qualifications of an employee who may be appointed as a
32 commissioned inspector.

33 (d) Subject to K.S.A. 2010 Supp. 31-704, and amendments thereto,
34 the term or length of time an employee shall be appointed as a
35 commissioned inspector.

36 (e) The procedures or conditions under which an appointment as a
37 commissioned inspector may be revoked by the ~~state fire marshal.~~
38 *division of facilities management.*

39 (f) Notification of the local fire authority of the time and location of
40 inspections to be conducted by a commissioned inspector and the results
41 of any such inspection.

42 (g) Any other terms the parties deem necessary or advisable.

43 Sec. 60. K.S.A. 2010 Supp. 31-705 is hereby amended to read as

1 follows: 31-705. (a) An employee of a state educational institution who is
2 appointed as a commissioned inspector shall not be considered an
3 employee of the ~~office of state fire marshal~~. *division of facilities*
4 *management*.

5 (b) An employee of a state educational institution who is appointed
6 as a commissioned inspector shall receive no monetary compensation
7 from the ~~office of the state fire marshal~~ *division of facilities management*
8 for performing powers, duties or functions of a commissioned inspector.

9 Sec. 61. K.S.A. 36-132 is hereby amended to read as follows: 36-
10 132. Within any place of assembly flexible metal gas connectors may be
11 used in connection with natural gas-fired movable cooking equipment, if
12 such flexible metal gas connectors are of a design and construction
13 approved by the ~~state fire marshal~~ *division of facilities management of*
14 *the department of administration* for such purposes as provided by K.S.A.
15 36-133, *and amendments thereto*.

16 Sec. 62. K.S.A. 36-133 is hereby amended to read as follows: 36-
17 133. The ~~state fire marshal~~ *division of facilities management of the*
18 *department of administration* is hereby authorized and directed to
19 approve the design and construction for flexible metal gas connectors
20 authorized for use under K.S.A. 36-132, *and amendments thereto*.

21 Sec. 63. K.S.A. 36-134 is hereby amended to read as follows: 36-
22 134. (a) *It shall be unlawful for any person, firm or corporation using to*
23 *use a flexible metal gas connector in connection with natural gas-fired*
24 *movable cooking equipment which does not meet the design and*
25 *construction requirements approved by the* ~~state fire marshal~~ *division of*
26 *facilities management of the department of administration* pursuant to
27 K.S.A. 36-133 ~~shall be guilty of~~, *and amendments thereto*.

28 (b) *Violation of this section is a class C misdemeanor.*

29 Sec. 64. K.S.A. 2010 Supp. 36-510 is hereby amended to read as
30 follows: 36-510. (a) The secretary shall be responsible for the
31 enforcement of the lodging and food service standards promulgated
32 pursuant to this act, but the secretary is hereby authorized and
33 empowered to contract with the governing body of any municipality for
34 the enforcement of all or any portion of such standards, whenever the
35 secretary shall determine that such municipality has adequate personnel
36 to provide proper enforcement. Any municipality entering into a contract
37 with the secretary to enforce such standards shall act as an agent of the
38 secretary in carrying out such duties, and no such municipality shall
39 charge any lodging establishment or food service establishments a fee for
40 services performed as an agent of the secretary under such contract which
41 is in addition to and separate from any fee such establishment is required
42 to pay to the secretary under the provisions of this act. Such municipality
43 shall enforce such standards within such municipalities of this state as are

1 designated in the contract. Any inspection of lodging or food service
2 establishments by officers, employees or agents of any such municipality,
3 and any notice of noncompliance issued as a result of any such
4 inspection, shall have the same force and effect as if such had been done
5 by the secretary.

6 (b) The secretary and the ~~state fire marshal~~ *division of facilities*
7 *management of the department of administration* are hereby authorized
8 and empowered to enter into a contract authorizing the ~~state fire marshal~~
9 ~~and the fire marshal's deputies or lawful agents~~ *division of facilities*
10 *management of the department of administration* to enforce all or any
11 portion of the lodging or food service standards promulgated pursuant to
12 this act. Such contract shall designate specific lodging or food service
13 establishments, or types of lodging or food service establishments,
14 wherein such authority may be exercised. Any inspection of such
15 establishments by the ~~state fire marshal or the fire marshal's deputies or~~
16 ~~lawful agents~~ *division of facilities management of the department of*
17 *administration*, to determine compliance with lodging or food service
18 standards established pursuant to this act, and any notice of
19 noncompliance issued as a result of any such inspection, shall have the
20 same force and effect as if such had been done by the secretary.

21 Such contract also may provide similar authority for the secretary of
22 agriculture and the secretary's officers, employees and agents with respect
23 to enforcement of all or any portion of the Kansas fire prevention code in
24 specified lodging or food service establishments, or in types of lodging or
25 food service establishments. Any inspection of such establishments by the
26 secretary, or the secretary's officers, employees and agents, to determine
27 compliance with the Kansas fire prevention code, shall have the same
28 force and effect as if performed by the ~~state fire marshal or the marshal's~~
29 ~~deputies and agents.~~ *division of facilities management of the department*
30 *of administration*.

31 Sec. 65. K.S.A. 2010 Supp. 39-925 is hereby amended to read as
32 follows: 39-925. (a) The administration of the adult care home licensure
33 act is hereby transferred from the secretary of health and environment to
34 the secretary of aging, except as otherwise provided by this act. On the
35 effective date of this act, the administration of the adult care home
36 licensure act shall be under authority of the secretary of aging as the
37 licensing agency in conjunction with the ~~state fire marshal~~ *division of*
38 *facilities management of the department of administration*, and shall have
39 the assistance of the county, city-county or multicounty health
40 departments, local fire and safety authorities and other agencies of
41 government in this state. The secretary of aging shall appoint an officer to
42 administer the adult care home licensure act and such officer shall be in
43 the unclassified service under the Kansas civil service act.

1 (b) The secretary of aging shall be a continuation of the secretary of
2 health and environment as to the programs transferred and shall be the
3 successor in every way to the powers, duties and functions of the
4 secretary of health and environment for such programs, except as
5 otherwise provided by this act. On and after the effective date of this act,
6 for each of the programs transferred, every act performed in the exercise
7 of such powers, duties and functions by or under the authority of the
8 secretary of aging shall be deemed to have the same force and effect as if
9 performed by the secretary of health and environment in whom such
10 powers were vested prior to the effective date of this act.

11 (c) (1) No suit, action or other proceeding, judicial or administrative,
12 which pertains to any of the transferred adult care home survey,
13 certification and licensing programs, and reporting of abuse, neglect or
14 exploitation of adult care home residents, which is lawfully commenced,
15 or could have been commenced, by or against the secretary of health and
16 environment in such secretary's official capacity or in relation to the
17 discharge of such secretary's official duties, shall abate by reason of the
18 transfer of such programs. The secretary of aging shall be named or
19 substituted as the defendant in place of the secretary of health and
20 environment in any suit, action or other proceeding involving claims
21 arising from facts or events first occurring either on or before the
22 effective date of this act or thereafter.

23 (2) No suit, action or other proceeding, judicial or administrative,
24 pertaining to the adult care home survey, certification and licensing
25 programs or to the reporting of abuse, neglect or exploitation of adult care
26 home residents which otherwise would have been dismissed or concluded
27 shall continue to exist by reason of any transfer under this act.

28 (3) No criminal action commenced or which could have been
29 commenced by the state shall abate by the taking effect of this act.

30 (4) Any final appeal decision of the department of health and
31 environment entered pursuant to K.S.A. 39-923 et seq., and amendments
32 thereto, K.S.A. 39-1401 et seq., and amendments thereto, or the Kansas
33 judicial review act, K.S.A. 77-601 et seq., and amendments thereto,
34 currently pertaining to adult care home certification, survey and licensing
35 or reporting of abuse, neglect or exploitation of adult care home residents,
36 transferred pursuant to this act shall be binding upon and applicable to the
37 secretary of aging and the department on aging.

38 (5) All orders and directives under the adult care home licensure act
39 by the secretary of health and environment in existence immediately prior
40 to the effective date of the transfer of powers, duties and functions by this
41 act, shall continue in force and effect and shall be deemed to be duly
42 issued orders, and directives of the secretary of aging, until reissued,
43 amended or nullified pursuant to law.

1 (d) (1) All rules and regulations of the department of health and
2 environment adopted pursuant to K.S.A. 39-923 et seq., and amendments
3 thereto, and in effect on the effective date of this act, which promote the
4 safe, proper and adequate treatment and care of individuals in adult care
5 homes, except those specified in subsection (d)(2) of this section, shall
6 continue to be effective and shall be deemed to be rules and regulations
7 of the secretary of aging, until revised, amended, revoked or nullified by
8 the secretary of aging, or otherwise, pursuant to law.

9 (2) The following rules and regulations of the department of health
10 and environment adopted pursuant to K.S.A. 39-923 et seq., and
11 amendments thereto, and in effect on the effective date of this act, shall
12 remain the rules and regulations of the secretary of health and
13 environment: K.A.R. 28-39-164 through 28-39-174.

14 (e) All contracts shall be made in the name of "secretary of aging"
15 and in that name the secretary of aging may sue and be sued on such
16 contracts. The grant of authority under this subsection shall not be
17 construed to be a waiver of any rights retained by the state under the 11th
18 amendment to the United States constitution and shall be subject to and
19 shall not supersede the provisions of any appropriation act of this state.

20 Sec. 66. K.S.A. 39-928 is hereby amended to read as follows: 39-
21 928. Upon receipt of an application for license, the licensing agency with
22 the approval of the ~~state fire marshal~~ *division of facilities management of*
23 *the department of administration* shall issue a license if the applicant is fit
24 and qualified and if the adult care home facilities meet the requirements
25 established under this law. The licensing agency, the ~~state fire marshal~~
26 *division of facilities management of the department of administration*, and
27 the county, city-county or multicounty health departments or their
28 designated representatives shall make such inspections and investigations
29 as are necessary to determine the conditions existing in each case and a
30 written report of such inspections and investigations and the
31 recommendations of the ~~state fire marshal~~ *division of facilities*
32 *management of the department of administration* and the county, city-
33 county or multicounty health department or their authorized agents shall
34 be filed with the licensing agency. The licensing agency and the ~~state fire~~
35 ~~marshal~~ *division of facilities management of the department of*
36 *administration* may designate and use county, city-county or multicounty
37 health departments and local fire and safety authorities as their agents in
38 making such inspections and investigations as are deemed necessary or
39 advisable. Such local authorities are hereby authorized, empowered and
40 directed to perform such duties as are designated. A copy of any
41 inspection reports required by this section shall be furnished to the
42 applicant.

43 A license, unless sooner suspended or revoked, shall remain in effect

1 upon filing by the licensee, and approval by the licensing agency and the
2 ~~state fire marshal~~ *division of facilities management of the department of*
3 *administration* or their duly authorized agents, of an annual report upon
4 such uniform dates and containing such information in such form as the
5 licensing agency prescribes and payment of an annual fee. Each license
6 shall be issued only for the premises and persons named in the
7 application and shall not be transferable or assignable. It shall be posted
8 in a conspicuous place in the adult care home. If the annual report is not
9 so filed and annual fee is not paid, such license is automatically canceled.
10 Any license granted under the provisions of this act shall state the type of
11 facility for which license is granted, number of residents for which
12 granted, the person or persons to whom granted, the date and such
13 additional information and special limitations as are deemed advisable by
14 the licensing agency.

15 Sec. 67. K.S.A. 39-929 is hereby amended to read as follows: 39-
16 929. A provisional license may be issued to any adult care home, the
17 facilities of which are temporarily unable to conform to all the standards,
18 requirements, rules and regulations established under the provisions of
19 this act: ~~Provided, however, That~~ . The issuance of such provisional
20 license shall be approved by the ~~state fire marshal~~ *division of facilities*
21 *management of the department of administration*. A provisional license
22 may be issued to provide time to make necessary corrections for not more
23 than six (6) months. One additional successive six-month provisional
24 license may be granted at the discretion of the licensing agency. A change
25 of ownership during the provisional licensing period will not extend the
26 time for the requirements to be met that were the basis for the provisional
27 license nor entitle the new owner to an additional provisional license.

28 Sec. 68. K.S.A. 2010 Supp. 39-935 is hereby amended to read as
29 follows: 39-935. (a) Inspections shall be made and reported in writing by
30 the authorized agents and representatives of the licensing agency and
31 ~~state fire marshal~~ *the division of facilities management of the department*
32 *of administration*, and of the county, city-county and multicounty health
33 departments as often and in the manner and form prescribed by the rules
34 and regulations promulgated under the provisions of this act. Access shall
35 be given to the premises of any adult care home at any time upon
36 presenting adequate identification to carry out the requirements of this
37 section and the provisions and purposes of this act, and failure to provide
38 such access shall constitute grounds for denial or revocation of license. A
39 copy of any inspection reports required by this section shall be furnished
40 to the applicant, except that a copy of the preliminary inspection report
41 signed jointly by a representative of the adult care home and the inspector
42 shall be left with the applicant when an inspection under this section is
43 completed. This preliminary inspection report shall constitute the final

1 record of deficiencies assessed against the adult care home during the
2 inspection, all deficiencies shall be specifically listed and no additional
3 deficiencies based upon the data developed at that time shall be assessed
4 at a later time. An exit interview shall be conducted in conjunction with
5 the joint signing of the preliminary inspection report.

6 (b) The authorized agents and representatives of the licensing
7 agency shall conduct at least one unannounced inspection of each adult
8 care home within 15 months of any previous inspection for the purpose of
9 determining whether the adult care home is complying with applicable
10 statutes and rules and regulations relating to the health and safety of the
11 residents of the adult care home. The statewide average interval between
12 inspections shall not exceed 12 months.

13 (c) Every adult care home shall post in a conspicuous place a notice
14 indicating that the most recent inspection report and related documents
15 may be examined in the office of the administrator of the adult care
16 home. Upon request, every adult care home shall provide to any person a
17 copy of the most recent inspection report and related documents,
18 provided the person requesting such report agrees to pay a reasonable
19 charge to cover copying costs.

20 (d) Each nursing facility that provides skilled nursing care, nursing
21 facility for mental health that provides skilled nursing care or assisted
22 living facility may establish and maintain a risk management program
23 which shall consist of: (1) A system for investigation and analysis of the
24 frequency and causes of reportable incidents within the facility; (2)
25 measures to minimize the occurrence of reportable incidents and the
26 resulting injuries within the facility; and (3) a reporting system based
27 upon the duty of all health care providers staffing the facility and all
28 agents and employees of the facility directly involved in the delivery of
29 health care services to report reportable incidents to the chief of the
30 medical staff, chief administrative officer or risk manager of the facility.
31 Any reports and records reviewed, obtained or prepared by the
32 department on aging in connection with any reportable incidents referred
33 for investigation under such risk management program, including any
34 reports and records reflecting the results of an inspection or survey under
35 this chapter or in accordance with the regulations, guidelines and
36 procedures issued by the United States secretary of health and human
37 services under Titles XVIII and XIX of the "Social Security Act," 49 Stat.
38 620 (1935), 42 U.S.C. § 301, as amended, shall not be admissible in any
39 civil action under the laws of the state of Kansas unless the court
40 determines on the record, following a hearing outside the presence of the
41 jury, that the proffered evidence excerpted from any report, record,
42 inspection or survey is relevant and substantially related to the plaintiff's
43 allegations and otherwise admissible under the rules of evidence set forth

1 in article 4; of chapter 60 of the Kansas Statutes Annotated, and
 2 amendments thereto. This subsection shall not be construed to limit or
 3 impair a person's or entity's discovery of or access to any such report,
 4 record, inspection or survey under state or federal law; , limit or impair
 5 the authority of the department on aging to investigate complaints or
 6 reportable incidents under state or federal law; or diminish or expand the
 7 department on aging's discovery of or access to quality assessment and
 8 assurance committee records under state or federal law.

9 Sec. 69. K.S.A. 2010 Supp. 39-938 is hereby amended to read as
 10 follows: 39-938. Adult care homes shall comply with all the lawfully
 11 established requirements and rules and regulations of the secretary of
 12 aging and the ~~state fire marshal~~ *division of facilities management of the*
 13 *department of administration*, and any other agency of government so far
 14 as pertinent and applicable to adult care homes, their buildings, operators,
 15 staffs, facilities, maintenance, operation, conduct, and the care and
 16 treatment of residents. The administrative rules and regulations of the
 17 state board of cosmetology and of the Kansas board of barbering shall not
 18 apply to adult care homes.

19 Sec. 70. K.S.A. 2010 Supp. 39-945 is hereby amended to read as
 20 follows: 39-945. A correction order may be issued by the secretary of
 21 aging or the secretary's designee to a person licensed to operate an adult
 22 care home whenever the ~~state fire marshal or the marshal's representative~~
 23 *division of facilities management of the department of administration* or a
 24 duly authorized representative of the secretary of aging inspects or
 25 investigates an adult care home and determines that the adult care home is
 26 not in compliance with the provisions of article 9 of chapter 39 of the
 27 Kansas Statutes Annotated, *and amendments thereto*, or rules and
 28 regulations promulgated thereunder which individually or jointly affects
 29 significantly and adversely the health, safety, nutrition or sanitation of the
 30 adult care home residents. The correction order shall be served upon the
 31 licensee either personally or by certified mail, return receipt requested.
 32 The correction order shall be in writing, shall state the specific deficiency,
 33 cite the specific statutory provision or rule and regulation alleged to have
 34 been violated, and shall specify the time allowed for correction.

35 Sec. 71. K.S.A. 2010 Supp. 40-252 is hereby amended to read as
 36 follows: 40-252. Every insurance company or fraternal benefit society
 37 organized under the laws of this state or doing business in this state shall
 38 pay to the commissioner of insurance fees and taxes specified in the
 39 following schedule:

40 A

41 *Insurance companies organized under the laws of this state:*

- 42 1. Capital stock insurance companies and mutual legal reserve life insurance companies:
 43 Filing application for sale of stock or certificates of indebtedness\$25
 44 Admission fees:

1 Examination of charter and other documents 500
 2 Filing annual statement 100
 3 Certificate of authority 10
 4 Annual fees:
 5 Filing annual statement 100
 6 Continuation of certificate of authority 10
 7 2. Mutual life, accident and health associations:
 8 Admission fees:
 9 Examination of charter and other documents \$500
 10 Filing annual statement 100
 11 Certificate of authority 10
 12 Annual fees:
 13 Filing annual statement 100
 14 Continuation of certificate of authority 10
 15 3. Mutual fire, hail, casualty and multiple line insurers and reciprocal or interinsurance
 16 exchanges:
 17 Admission fees:
 18 Examination of charter and other documents \$500
 19 Filing annual statement 100
 20 Certificate of authority 10
 21 Annual fees:
 22 Filing annual statement 100
 23 Continuation of certificate of authority 10
 24

25 In addition to the above fees and as a condition precedent to the
 26 continuation of the certificate of authority provided in this code, all such
 27 companies shall pay a fee of \$2 for each agent certified by the company
 28 and shall also pay a tax annually upon all premiums received on risk
 29 located in this state at the rate of 1% for tax year 1997, and 2% for all tax
 30 years thereafter per annum less (1) for tax years prior to 1984, any taxes
 31 paid on business in this state pursuant to the provisions of K.S.A. 40-
 32 1701 to 40-1707, inclusive, and 75-1508, and amendments thereto and (2)
 33 for tax years 1984 and thereafter, any taxes paid on business in this state
 34 pursuant to the provisions of K.S.A. 75-1508, and amendments thereto,
 35 and the amount of the firefighters relief tax credit determined by the
 36 commissioner of insurance. The amount of the firefighters relief tax
 37 credit for a company for the current tax year shall be determined by the
 38 commissioner of insurance by dividing (A) the total amount of credits
 39 against the tax imposed by this section for taxes paid by all such
 40 companies on business in this state under K.S.A. 40-1701 to 40-1707,
 41 inclusive, and amendments thereto, for tax year 1983, by (B) the total
 42 amount of taxes paid by all such companies on business in this state
 43 under K.S.A. 40-1703, and amendments thereto, for the tax year
 44 immediately preceding the current tax year, and by multiplying the result
 45 so obtained by (C) the amount of taxes paid by the company on business
 46 in this state under K.S.A. 40-1703, and amendments thereto, for the
 47 current tax year.

48 In the computation of the gross premiums all such companies shall be

1 entitled to deduct any premiums returned on account of cancellations,
 2 including funds accepted before January 1, 1997, and declared and taxed
 3 as annuity premiums which, on or after January 1, 1997, are withdrawn
 4 before application to the purchase of annuities, all premiums received for
 5 reinsurance from any other company authorized to do business in this
 6 state, dividends returned to policyholders and premiums received in
 7 connection with the funding of a pension, deferred compensation, annuity
 8 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
 9 408, 457 or 501 of the United States internal revenue code of 1986. Funds
 10 received by life insurers for the purchase of annuity contracts and funds
 11 applied by life insurers to the purchase of annuities shall not be deemed
 12 taxable premiums or be subject to tax under this section for tax years
 13 commencing on or after January 1, 1997.

14 **B**

15 *Fraternal benefit societies organized under the laws of this state:*

16 Admission fees:

17	Examination of charter and other documents.....	\$500
18	Filing annual statement.....	100
19	Certificate of authority.....	10
20	Annual fees:	
21	Filing annual statement.....	100
22	Continuation of certificate of authority.....	10

23 **C**

24 *Mutual nonprofit hospital service corporations, nonprofit medical service corporations,*
 25 *nonprofit dental service corporations, nonprofit optometric service corporations and*
 26 *nonprofit pharmacy service corporations organized under the laws of this state:*

27 1. Mutual nonprofit hospital service corporations:

28 Admission fees:

29	Examination of charter and other documents.....	\$500
30	Filing annual statement.....	100
31	Certificate of authority.....	10
32	Annual fees:	
33	Filing annual statement.....	100
34	Continuation of certificate of authority.....	10

35 2. Nonprofit medical service corporations:

36 Admission fees:

37	Examination of charter and other documents	\$500
38	Filing annual statement.....	100
39	Certificate of authority.....	10
40	Annual fees:	
41	Filing annual statement.....	100
42	Continuation of certificate of authority.....	10

43 3. Nonprofit dental service corporations:

44 Admission fees:

45	Examination of charter and other documents	\$500
46	Filing annual statement	100
47	Certificate of authority	10
48	Annual fees:	
49	Filing annual statement	100
50	Continuation of certificate of authority	10

1 4. Nonprofit optometric service corporations:
2 Admission fees:
3 Examination of charter and other documents \$500
4 Filing annual statement 100
5 Certificate of authority 10
6 Annual fees:
7 Filing annual statement 100
8 Continuation of certificate of authority 10
9 5. Nonprofit pharmacy service corporations:
10 Admission fees:
11 Examination of charter and other documents.....\$500
12 Filing annual statement.....100
13 Certificate of authority.....10
14 Annual fees:
15 Filing annual statement.....100
16 Continuation of certificate of authority.....10
17

18 In addition to the above fees and as a condition precedent to the
19 continuation of the certificate of authority, provided in this code, every
20 corporation or association shall pay annually to the commissioner of
21 insurance a tax in an amount equal to 1% for tax year 1997, and 2% for
22 all tax years thereafter per annum of the total of all premiums,
23 subscription charges, or any other term which may be used to describe the
24 charges made by such corporation or association to subscribers for
25 hospital, medical or other health services or indemnity received during
26 the preceding year. In such computations all such corporations or
27 associations shall be entitled to deduct any premiums or subscription
28 charges returned on account of cancellations and dividends returned to
29 members or subscribers.

30 D

31 *Insurance companies organized under the laws of any other state,*
32 *territory or country:*

33 1. Capital stock insurance companies and mutual legal reserve life insurance companies:
34 Filing application for sale of stock or certificates of indebtedness \$25
35 Admission fees:
36 Examination of charter and other documents 500
37 Filing annual statement 100
38 Certificate of authority 10
39 Annual fees:
40 Filing annual statement 100
41 Continuation of certificate of authority 10
42

43 In addition to the above fees all such companies shall pay \$5 for each
44 agent certified by the company, except as otherwise provided by law.

45 As a condition precedent to the continuation of the certificate of
46 authority, provided in this code, every company organized under the laws
47 of any other state of the United States or of any foreign country shall pay
48 a tax upon all premiums received during the preceding year at the rate of

1 2% per annum.
 2 In the computation of the gross premiums all such companies shall be
 3 entitled to deduct any premiums returned on account of cancellations,
 4 including funds accepted before January 1, 1997, and declared and taxed
 5 as annuity premiums which, on or after January 1, 1997, are withdrawn
 6 before application to the purchase of annuities, dividends returned to
 7 policyholders and all premiums received for reinsurance from any other
 8 company authorized to do business in this state and premiums received in
 9 connection with the funding of a pension, deferred compensation, annuity
 10 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
 11 408, 457 or 501 of the United States internal revenue code of 1986. Funds
 12 received by life insurers for the purchase of annuity contracts and funds
 13 applied by life insurers to the purchase of annuities shall not be deemed
 14 taxable premiums or be subject to tax under this section for tax years
 15 commencing on or after January 1, 1997.

- 16 2. Mutual life, accident and health associations:
 17 Admission fees:
 18 Examination of charter and other documents.....\$500
 19 Filing annual statement.....100
 20 Certificate of authority.....10
 21 Annual fees:
 22 Filing annual statement.....100
 23 Continuation of certificate of authority.....10
 24

25 In addition to the above fees, every such company organized under the
 26 laws of any other state of the United States shall pay \$5 for each agent
 27 certified by the company, and shall pay a tax annually upon all premiums
 28 received at the rate of 2% per annum.

29 In the computation of the gross premiums all such companies shall be
 30 entitled to deduct any premiums returned on account of cancellations,
 31 including funds accepted before January 1, 1997, and declared and taxed
 32 as annuity premiums which, on or after January 1, 1997, are withdrawn
 33 before application to the purchase of annuities, dividends returned to
 34 policyholders and all premiums received for reinsurance from any other
 35 company authorized to do business in this state and premiums received in
 36 connection with the funding of a pension, deferred compensation, annuity
 37 or profit-sharing plan qualified or exempt under sections 401, 403, 404,
 38 408, 457 or 501 of the United States internal revenue code of 1986. Funds
 39 received by life insurers for the purchase of annuity contracts and funds
 40 applied by life insurers to the purchase of annuities shall not be deemed
 41 taxable premiums or be subject to tax under this section for tax years
 42 commencing on or after January 1, 1997.

- 43 3. Mutual fire, casualty and multiple line insurers and reciprocal or
 44 interinsurance exchanges:
 45 Admission fees:

1 Examination of charter and other documents and issuance of certificate of
 2 authority \$500
 3 Filing annual statement 100
 4 Certificate of authority 10
 5 Annual fees:
 6 Filing annual statement 100
 7 Continuation of certificate of authority 10
 8
 9

10 In addition to the above fees, every such company or association
 11 organized under the laws of any other state of the United States shall pay
 12 a fee of \$5 for each agent certified by the company and shall also pay a
 13 tax annually upon all premiums received at the rate of 2% per annum.

14 For tax years 1998 and thereafter, the annual tax shall be reduced by
 15 the "applicable percentage" of (1) any taxes paid on business in this state
 16 pursuant to the provisions of K.S.A. 75-1508, and amendments thereto,
 17 and (2) the amount of the firefighters relief tax credit determined by the
 18 commissioner of insurance. The amount of the firefighters relief tax
 19 credit for a company taxable under this subsection for the current tax year
 20 shall be determined by the commissioner of insurance by dividing (A) the
 21 total amount of taxes paid by all such companies on business in this state
 22 under K.S.A. 40-1701 to 40-1707, and amendments thereto, for tax year
 23 1983 as then in effect, by (B) the total amount of taxes paid by all such
 24 companies on business in this state under K.S.A. 40-1703, and
 25 amendments thereto, for the tax year immediately preceding the current
 26 tax year, and by multiplying the result so obtained by (C) the amount of
 27 taxes paid by the company on business in this state under K.S.A. 40-
 28 1703, and amendments thereto, for the current tax year. The "applicable
 29 percentage" shall be as follows:

Tax Year	Applicable Percentage
1998	10%
1999	20%
2000	30%
2001	40%
2002	50%
2003	60%
2004	70%
2005	80%
2006	90%
2007 and thereafter	100%

39
 40
 41 In the computation of the gross premiums all such companies shall be
 42 entitled to deduct any premiums returned on account of cancellations, all
 43 premiums received for reinsurance from any other company authorized to
 44 do business in this state, and dividends returned to policyholders.

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E

Fraternal benefit societies organized under the laws of any other state, territory or country:

Admission fees:

Examination of charter and other documents.....	\$500
Filing annual statement	100
Certificate of authority.....	10

Annual fees:

Filing annual statement.....	100
Continuation of certificate of authority.....	10

F

Mutual nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations organized under the laws of any other state, territory or country:

1. Mutual nonprofit hospital service corporations:

Admission fees:

Examination of charter and other documents.....	\$500
Filing annual statement	100
Certificate of authority	10

Annual fees:

Filing annual statement.....	100
Continuation of certificate of authority.....	10

2. Nonprofit medical service corporations, nonprofit dental service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations:

Admission fees:

Examination of charter and other documents.....	\$500
Filing annual statement.....	100
Certificate of authority.....	10

Annual fees:

Filing annual statement.....	100
Continuation of certificate of authority.....	10

In addition to the above fees and as a condition precedent to the continuation of the certificate of authority, provided in this code, every corporation or association shall pay annually to the commissioner of insurance a tax in an amount equal to 2% per annum of the total of all premiums, subscription charges, or any other term which may be used to describe the charges made by such corporation or association to subscribers in this state for hospital, medical or other health services or indemnity received during the preceding year. In such computations all such corporations or associations shall be entitled to deduct any premiums or subscription charges returned on account of cancellations and dividends returned to members or subscribers.

G

Payment of Taxes.

For the purpose of insuring the collection of the tax upon premiums,

1 assessments and charges as set out in subsection A, C, D or F, every
2 insurance company, corporation or association shall at the time it files its
3 annual statement, as required by the provisions of K.S.A. 40-225, and
4 amendments thereto, make a return, generated by or at the direction of its
5 president and secretary or other chief officers, under penalty of K.S.A.
6 21-3711, and amendments thereto, to the commissioner of insurance,
7 stating the amount of all premiums, assessments and charges received by
8 the companies or corporations in this state, whether in cash or notes,
9 during the year ending on the December 31 next preceding.

10 Commencing in 1985 and annually thereafter the estimated taxes shall
11 be paid as follows: On or before June 15 and December 15 of such year
12 an amount equal to 50% of the full amount of the prior year's taxes as
13 reported by the company shall be remitted to the commissioner of
14 insurance. As used in this paragraph, "prior year's taxes" includes (1)
15 taxes assessed pursuant to this section for the prior calendar year, (2) fees
16 and taxes assessed pursuant to K.S.A. 40-253, and amendments thereto,
17 for the prior calendar year, and (3) taxes paid for maintenance of the
18 ~~department of the state fire marshal~~ *division of facilities management of*
19 *the department of administration* pursuant to K.S.A. 75-1508, and
20 amendments thereto, for the prior calendar year.

21 Upon the receipt of such returns the commissioner of insurance shall
22 verify the same and assess the taxes upon such companies, corporations
23 or associations on the basis and at the rate provided herein and the
24 balance of such taxes shall thereupon become due and payable giving
25 credit for amounts paid pursuant to the preceding paragraph, or the
26 commissioner shall make a refund if the taxes paid in the prior June and
27 December are in excess of the taxes assessed.

28 H

29 The fee prescribed for the examination of charters and other
30 documents shall apply to each company's initial application for admission
31 and shall not be refundable for any reason.

32 Sec. 72. K.S.A. 40-2,110 is hereby amended to read as follows: 40-
33 2,110. (a) Every property or casualty insurance company transacting
34 business in this state shall file with the ~~state fire marshal~~ *division of*
35 *facilities management of the department of administration*, directly or
36 through a reporting service, a monthly report of each fire loss paid which
37 exceeds ~~five hundred dollars (\$500)~~ \$500 and an annual report setting
38 forth the total number of fire losses and the total amount of losses paid.

39 (b) The ~~state fire marshal~~ *secretary of administration* shall adopt
40 rules and regulations prescribing the contents of the reports required to be
41 filed pursuant to the provisions of subsection (a) and prescribing the time
42 for filing such reports. The ~~state fire marshal~~ *division of facilities*
43 *management of the department of administration* shall make report forms

1 available upon request.

2 Sec. 73. K.S.A. 48-928 is hereby amended to read as follows: 48-
3 928. In addition to other duties imposed under this act, the division of
4 emergency management shall:

5 (a) Determine the requirements of the state and the counties and
6 cities thereof for food, clothing and other necessities in event of a
7 disaster;

8 (b) procure and distribute about the state, such supplies, medicines,
9 materials and equipment which are deemed necessary for use during a
10 disaster;

11 (c) promulgate standards and requirements for local and
12 interjurisdictional disaster emergency plans including adequate provisions
13 for the rendering and receipt of mutual aid;

14 (d) periodically examine or review and approve local and
15 interjurisdictional disaster emergency plans which are in accordance with
16 the standards and requirements promulgated therefor;

17 (e) establish and operate training or public information programs
18 relating to emergency management, and assist counties and cities, the
19 disaster agencies of such counties or cities and interjurisdictional disaster
20 agencies, in the establishment and operation of such programs;

21 (f) make surveys of industries, resources and facilities within the
22 state, both public and private, as are necessary to carry out the purposes
23 of this act;

24 (g) plan and make arrangements for the availability and use of any
25 private facilities, services and property for emergency management
26 activities and, if necessary and if in fact used, provide for payment for
27 such use under terms and conditions agreed upon;

28 (h) establish a register of persons with types of training and skills
29 important in emergency management activities;

30 (i) establish a register of mobile and construction equipment and
31 temporary housing available for use in a disaster;

32 (j) prepare drafts of orders or proclamations for the governor as
33 necessary or appropriate in coping with disasters;

34 (k) serve, for all those agencies which regulate any matter affecting
35 the transportation of hazardous materials:

36 (1) As the coordinating and supervising state agency; and

37 (2) to provide continuing liaison between such state agencies;

38 (l) establish an informational system under which state agencies
39 shall notify the division of emergency management;

40 (m) cooperate with the federal government and any public or private
41 agency or entity in achieving any purpose of this act and in implementing
42 programs for disaster prevention, preparation response and recovery;

43 (n) under the direction of the adjutant general, develop a regional

1 emergency management system which includes the use of regional
2 coordinators that provide training and preparation of state, county, city
3 and interjurisdictional disaster agencies to prevent, respond to, mitigate
4 and recover from emergency and disaster situations;

5 (o) under the direction of the adjutant general, implement the use of
6 an incident management system during emergency and disaster situations
7 by all state, county, city and interjurisdictional disaster agencies which
8 respond to such emergency or disaster situations;

9 (p) develop and administer a program to provide financial assistance
10 to cities, counties or interjurisdictional disaster agencies for the
11 development and implementation of a terrorism preparedness program.
12 Such program shall provide criteria for receiving such financial assistance
13 and such other conditions as the division may deem necessary; ~~and~~

14 (q) develop, implement and administer, with the assistance and
15 advice of the commission on emergency planning and response, a plan for
16 regional emergency medical response teams; *and*

17 (r) *develop and implement a statewide system of hazardous*
18 *materials assessment and response.*

19 Sec. 74. K.S.A. 50-644 is hereby amended to read as follows: 50-
20 644. (a) No person shall manufacture, distribute, offer for sale, sell or
21 install any thermal insulation in this state unless such insulation has been
22 tested in accordance with the American Society for Testing and Materials
23 Standard E 84, Standard Method of Test for Surface Burning
24 Characteristics of Building Materials, and certified, by an independent
25 testing laboratory approved by the ~~state fire marshal~~ *division of facilities*
26 *management of the department of administration*, as having a flame
27 spread rating of 75 or less, or as having a classification representing a
28 flame spread rating not in excess thereof, and is clearly labeled to that
29 effect on the package or, if not contained in a package, is accompanied by
30 a written statement to that effect.

31 (b) Nothing in this section shall be construed to prevent a city or
32 county from requiring a lower maximum flame spread rating than
33 required in this section for thermal insulation which is manufactured,
34 distributed, offered for sale, sold or installed within the jurisdiction of the
35 city or county.

36 (c) As used in this section, "thermal insulation" means any material
37 designed for installation in the walls, floors or ceilings of a structure for
38 the specific purpose of reducing loss or gain of energy by such structure
39 but shall not include any backing or vapor barrier attached to such
40 material.

41 (d) Any violation of this section is an unconscionable act or practice
42 under the Kansas consumer protection act.

43 (e) This section shall be a part of and supplemental to the Kansas

1 consumer protection act.

2 Sec. 75. K.S.A. 55-1803 is hereby amended to read as follows: 55-
3 1803. (a) The Kansas propane education and research council is hereby
4 created. Members of the council shall be appointed by the governor from
5 a list of nominees submitted by qualified industry organizations within 60
6 days after the effective date of this act. The council shall consist of 10
7 members, including four members representing retail marketers of
8 propane; two members representing wholesalers, resellers, suppliers and
9 importers of propane; two members representing manufacturers and
10 distributors of propane gas equipment and transporters of propane; one
11 public member; and the ~~state fire marshal or the state fire marshal's~~
12 *secretary of administration or the secretary's* designee who shall serve as
13 an ex officio member.

14 (b) Members of the council shall serve terms of three years, except
15 that, of the initial members, three shall be appointed for terms of one year
16 and three shall be appointed for terms of two years, as designated by the
17 governor. Members filling unexpired terms shall be appointed in a
18 manner consistent with this section. Members may serve a maximum of
19 two consecutive full terms, except that members filling unexpired terms
20 may serve a maximum of eight consecutive years. Former members may
21 be reappointed if they have not been members for a period of two years.

22 (c) The council shall select from among the council's members a
23 chairperson and other officers as necessary, establish committees and
24 subcommittees of the council and adopt rules and regulations and bylaws
25 for the conduct of business. The council may establish advisory
26 committees of persons other than council members.

27 (d) The council may employ an executive director to serve as chief
28 executive officer and such other employees as it deems necessary. The
29 council shall determine the compensation and duties of each and shall
30 protect the handling of council funds through fidelity bonds.

31 (e) The administrative costs of operating the council shall not exceed
32 10% of the funds collected in any fiscal year.

33 (f) At the beginning of each fiscal year, the council shall prepare a
34 budget plan that includes the estimated costs of all programs, projects and
35 contracts of the council. The council shall provide an opportunity for
36 public comment on the budget. The council shall prepare and make
37 available to the public an annual report detailing the activities of the
38 council in the previous year, those planned for the coming year and costs
39 related to the activities.

40 (g) The council shall keep minutes, books and records that clearly
41 reflect all of the acts and transactions of the council. The books of the
42 council shall be audited by a certified public accountant at least once each
43 fiscal year and at such other times as the council may designate. Copies

1 of audits shall be provided to the executive director, to all members of the
2 council and to any other member of the industry upon request.

3 (h) The council shall be subject to the Kansas open meetings act and
4 shall require reports on the activities of the committees and
5 subcommittees and on compliance, violations and complaints regarding
6 the implementation of this act.

7 (i) The council shall develop programs and projects and enter into
8 contracts or agreements for implementing this act, including programs to
9 enhance consumer and employee safety and training, programs to provide
10 research and development to improve existing propane technology,
11 programs to increase efficiency of propane use and any other programs to
12 educate the public about the safety and environmental aspects of propane.
13 Safety issues shall receive first priority in the development of all
14 programs and projects funded by the council. The funds collected for the
15 council shall not be used to promote one energy source over another. In
16 developing programs and projects and entering into contracts or
17 agreements for implementing the provisions of this act, the council shall
18 not use any funds collected by the council to provide for or assist the
19 purchase of equipment related to such programs and projects by or for a
20 private, for profit corporation or other business association or entity. The
21 council shall not use any funds collected by the council to purchase
22 propane products and equipment or replace propane products and
23 equipment for Kansas consumers, including through cost-share programs,
24 except that the council may use such funds for the purchase of propane
25 products and equipment for displays in such programs or projects. The
26 council shall provide for the payment of the costs of the programs and
27 projects with funds collected pursuant to K.S.A. 55-1804, and
28 amendments thereto, and shall coordinate the council's activities with
29 qualified industry organizations to provide efficient delivery of services
30 and to avoid unnecessary costs of duplication of activities.

31 (j) The council shall report annually to the house and senate
32 committees on agriculture. Such report shall include details of council
33 programs, projects and activities as provided pursuant to this act. The
34 report provided in 2004 shall include a review of propane safety policies,
35 statutes, rules and regulations in Kansas and adjoining states and shall
36 include recommendations the council deems appropriate for policy,
37 statutory or regulatory changes in Kansas to improve propane safety.

38 Sec. 76. K.S.A. 55-1807 is hereby amended to read as follows: 55-
39 1807. (a) This act shall be referred to as the Kansas propane safety and
40 licensing act.

41 (b) The ~~state fire marshal~~ *division of facilities management* shall
42 establish programs relating to the regulation and licensing of the liquefied
43 petroleum gas industry in Kansas.

1 (c) For the purpose of this act:

2 (1) "Liquefied petroleum gas marketer" or "marketer" means any
3 person, firm, corporation, association or other entity engaged directly in
4 the retail sale or retail transport delivery of liquefied petroleum gas;

5 (2) "retail distribution of liquefied petroleum gas" means the
6 delivery, sale or transportation of liquefied petroleum gas to an end retail
7 user;

8 (3) "liquefied petroleum gas" means any material which is
9 composed predominantly of any of the following hydrocarbons or
10 mixtures of the same: propane, propylene, butanes, including, but not
11 limited to, normal butane and isobutane and butylenes;

12 (4) "end retail user" means any consumer, person, firm or
13 corporation who utilizes liquefied petroleum gas in Kansas;

14 (5) "liquefied petroleum gas system" or "system" means any
15 equipment utilizing liquefied petroleum gas including a storage container,
16 end point or points of combustion, appliances and all attachments
17 utilizing or transporting liquefied petroleum gas;

18 (6) "returned to service" means the time at which liquefied
19 petroleum gas is reintroduced into the liquefied petroleum gas system,
20 any part of the liquefied petroleum gas system is repressurized, or at the
21 completion of any installation, modification, repair or service of a system;

22 (7) "interruption of service" means: (A) An event which causes a
23 liquefied petroleum gas system to become, in total or in part,
24 depressurized due to any installation, modification, repair, service; or (B)
25 a change in occupancy or ownership of the location utilizing the liquefied
26 petroleum gas system;

27 (8) "~~state fire marshal~~" means ~~the fire marshal of the state of Kansas~~
28 *"division of facilities management" means the division of facilities*
29 *management of the department of administration*; and

30 (9) "liquefied petroleum gas facilities" means any liquefied
31 petroleum gas facility with an aggregate water capacity exceeding 2,000
32 gallons.

33 Sec. 77. K.S.A. 55-1809 is hereby amended to read as follows: 55-
34 1809. (a) In any action brought against a liquefied petroleum gas
35 marketer for personal injury or property damage, an end retail user's
36 damages shall be reduced by the comparative negligence of the end retail
37 user or any third party to the extent the action of the end retail user or the
38 third party contributed to cause the personal injury or property damage,
39 including, but not limited to, the end retail user's or third party's: (1)
40 Modification, repair, service or alteration of the end retail user's liquefied
41 petroleum gas system; or (2) failure to conduct a leak check or inspection
42 of the liquefied petroleum gas system after any modification, repair,
43 service or alteration of the end retail user's system.

1 (b) Nothing in this act is intended to limit any claim or defense that
2 an act of an end retail user, third party, marketer or other person or entity
3 contributed to cause the personal injury or property damage.

4 (c) In any action brought against a liquefied petroleum gas marketer
5 for personal injury or property damage, evidence of the marketer's
6 compliance or noncompliance with this act shall be admissible as
7 evidence to support a claim or defense to the extent such evidence is
8 relevant to the cause of the personal injury or property damage.

9 (d) Nothing in this act is intended to limit the liability of any
10 individual, licensee, or liquefied petroleum gas marketer for any damages
11 that arise from any reckless or intentional act of such individual, licensee
12 or liquefied petroleum marketer.

13 (e) The ~~state fire marshal~~ *division of facilities management* shall
14 develop an information notice and distribute the same annually to all
15 licensees. The notice shall include a reference to this section, a
16 description of the law and any additional information that the ~~state fire~~
17 ~~marshal~~ *division of facilities management* deems necessary and
18 appropriate.

19 (f) Every liquefied petroleum gas marketer in the state of Kansas
20 shall maintain continuous general liability coverage of not less than
21 \$1,000,000 and shall annually provide proof of insurance to the ~~state fire~~
22 ~~marshal~~ *division of facilities management*.

23 Sec. 78. K.S.A. 55-1810 is hereby amended to read as follows: 55-
24 1810. (a) An application and plan for design, construction, major
25 modification and installation of all liquefied petroleum gas facilities shall
26 be submitted to the ~~state fire marshal~~ *division of facilities management*.
27 Construction, major modification and installation of all liquefied
28 petroleum gas facilities owned or operated by a liquefied petroleum gas
29 marketer shall not commence until such application and plan is reviewed
30 and approved by the ~~state fire marshal~~ *division of facilities management*
31 in accordance with rules and regulations.

32 (b) The ~~state fire marshal~~ *division of facilities management* shall
33 approve or deny the submitted applications and plans within 20 business
34 days upon receipt of all necessary documentation as provided for in rules
35 and regulations. If the ~~state fire marshal~~ *division of facilities management*
36 requests additional information from the applicant, the ~~state fire marshal~~
37 *division of facilities management* shall have an additional 20 business
38 days from the day of receipt of such information to approve or deny the
39 submitted application and plan.

40 Sec. 79. K.S.A. 55-1811 is hereby amended to read as follows: 55-
41 1811. (a) A liquefied petroleum gas advisory board shall be created within
42 and as part of the ~~state fire marshal's office~~ *division of facilities*
43 *management*.

1 (b) The advisory board shall serve in an advisory capacity to the
2 governor and the ~~state fire marshal~~ *division of facilities management*.
3 The advisory board shall review and make recommendations on proposed
4 rules and regulations or proposed revisions to current rules and
5 regulations concerning liquefied petroleum gas prior to the submission of
6 such rules and regulations to the secretary of administration pursuant to
7 K.S.A. 77-420, and amendments thereto. Personnel matters of the ~~state~~
8 ~~fire marshal~~ *division of facilities management* shall not be reviewed by
9 the advisory board. The advisory board shall not have any powers, duties
10 or functions concerning the day-to-day operations of the ~~office of the~~
11 ~~state fire marshal~~ *division of facilities management*.

12 (c) The board shall be composed of nine members who shall be
13 appointed by the governor. Four members shall represent retail marketers
14 of liquefied petroleum gas; one member shall represent the insurance
15 industry; one member shall represent wholesalers, resellers, suppliers and
16 importers of liquefied petroleum gas; one member shall represent
17 manufacturers and distributors of liquefied petroleum gas equipment and
18 transporters of liquefied petroleum gas; and two members shall come
19 from the public. At no time shall more than five members of the advisory
20 board be members of the same political party.

21 (d) The regular term of office of members of the advisory board
22 shall be four years. Regular terms shall commence on the second Monday
23 in January following the appointment of a board member.

24 (e) Of the members of the board appointed in the year 2004:

25 (1) Four members shall have terms ending on the second Monday in
26 January 2008 and no more than two such members shall be members of
27 the same political party; and

28 (2) five members shall have terms ending on the second Monday in
29 January 2007 and no more than three such members shall be members of
30 the same political party.

31 (f) Any member appointed subsequent to 2004 shall be appointed for
32 a four-year term, unless such appointment is to fill the unexpired term
33 where a vacancy has occurred on the advisory board, in which case the
34 member shall be appointed for the remainder of the unexpired term.

35 (g) Members of any such advisory committee shall serve without
36 compensation. The membership shall be selected based on the
37 individual's knowledge regarding liquefied petroleum gas, insurance or
38 other relevant expertise.

39 Sec. 80. K.S.A. 2010 Supp. 55-1812 is hereby amended to read as
40 follows: 55-1812. (a) The ~~state fire marshal~~ *secretary of administration*
41 shall promulgate rules and regulations to carry out the provisions of this
42 act. Any rules and regulations of the ~~state fire marshal~~ *secretary* adopted
43 pursuant to this section may incorporate by reference specific editions, or

1 portions thereof, of nationally recognized fire prevention codes. Such
2 rules and regulations shall include but not be limited to the following:

3 (1) The establishment of classes of licenses which shall be renewed
4 on an annual basis, including, but not limited to:

5 (A) Class one dealer license which is required to engage in the retail
6 distribution of liquefied petroleum gas;

7 (B) class two bulk storage site license which requires the holder to
8 report all bulk storage facilities and locations within their operations;

9 (C) class three cylinder transport license which is required to operate
10 a cylinder delivery service;

11 (D) class four cylinder filling license which is required to operate a
12 cylinder filling facility, including liquefied petroleum gas cylinder filling
13 and the sale of cylinder valves, and the operation of a liquefied petroleum
14 gas filling station;

15 (E) class five recreational vehicle fueling license which is required
16 to fuel recreational vehicles or mobile fuel containers;

17 (F) class six cylinder exchange cabinet license which is required to
18 establish a cylinder exchange cabinet or participate in a cylinder program;

19 (G) class seven self-serve liquefied petroleum gas dispensing license
20 which is required to operate a liquefied petroleum gas fueling facility;
21 and

22 (H) class eight installation and service of liquefied petroleum gas
23 systems license which is required to install, maintain, or modify a
24 residential or commercial liquefied petroleum gas distribution and
25 utilization system.

26 (2) the establishment of educational requirements for each class of
27 licenses;

28 (3) the establishment of inspection programs and inspection
29 requirements for all liquefied petroleum gas facilities, operations,
30 installations and businesses, including, but not limited to, bulk storage
31 areas, safety information and customer records, educational requirements
32 of liquefied petroleum gas employees and commercial establishments and
33 places of public gathering that are end retail users for compliance with
34 rules and regulations; and

35 (4) the establishment of codes which the ~~state fire marshal~~ *secretary*
36 *of administration* has determined provide adequate protection and
37 guidance to the liquefied petroleum gas industry and public relating to the
38 handling, installation, modification, delivery and use of liquefied
39 petroleum gas and liquefied petroleum gas systems.

40 (b) The ~~state fire marshal~~ *division of facilities management* shall
41 have the authority to charge and collect fees as provided in this
42 subsection:

43 (1) The annual license fee for a class one dealer license shall not

- 1 exceed \$250 per location;
- 2 (2) the annual class two bulk storage site license fee shall not exceed
3 \$50 per tank;
- 4 (3) the annual class three cylinder transport license fee per vehicle
5 shall not exceed \$125 per truck;
- 6 (4) the annual class four cylinder filling license fee per facility shall
7 not exceed \$75 per location;
- 8 (5) the annual class five recreational vehicle fueling license fee per
9 facility shall not exceed \$75 per location;
- 10 (6) the annual class six cylinder exchange cabinet license fee per
11 facility shall not exceed \$15 per location;
- 12 (7) the annual class seven self-serve liquefied petroleum gas
13 dispensing license fee per facility shall not exceed \$75 per location; and
- 14 (8) the annual class eight installation and service of liquefied
15 petroleum gas systems license fee shall not exceed \$25 per individual.
- 16 (c) A person who has earned a certificate pursuant to K.S.A. 12-
17 1508 et seq., or 12-1541 et seq., and amendments thereto, shall be exempt
18 from all licensure and training provisions of this act and all licensure and
19 training rules and regulations adopted pursuant to this act. Upon written
20 request of the ~~state fire marshal~~ *division of facilities management*, a
21 certificate holder shall furnish proof of certification.
- 22 (d) In addition to any other penalty provided by law, any person
23 violating the provisions of this act, and amendments thereto, or the rules
24 and regulations adopted pursuant to this act may incur fines in the amount
25 not less than \$50 nor more than \$1,000 for each such violation. In the
26 case of a continuing violation, every day such violation continues is a
27 separate violation. Such fines shall be imposed pursuant to the procedures
28 provided in the administrative procedure act. Any fines recovered shall be
29 remitted to the state treasurer and deposited to the credit of the state
30 general fund.
- 31 (e) The ~~state fire marshal~~ *division of facilities management* shall
32 create uniform safety information which shall be distributed on, at least
33 an annual basis, to all licensees.
- 34 (f) (1) The ~~fire marshal~~ *division of facilities management* may
35 suspend, revoke or refuse to issue or renew a license of any liquefied
36 petroleum gas marketer or individual licensee as created by this act and
37 rules and regulations upon proof that the licensee has violated any
38 provision of this act or amendments thereto, any rules and regulations or
39 amendments thereto, or provision regarding a class of license as
40 established by the ~~state fire marshal~~ *secretary of administration*.
- 41 (2) Proceedings to consider the suspension, revocation or refusal to
42 renew a license shall be conducted in accordance with the provisions of
43 the Kansas administrative procedure act.

1 Sec. 81. K.S.A. 55-1813 is hereby amended to read as follows: 55-
2 1813. There is hereby created the ~~state fire marshal~~ liquefied petroleum
3 gas fee fund *which shall be administered by the division of facilities*
4 *management*. The ~~state fire marshal~~ *division of facilities management*
5 shall remit all moneys received by or for it from fees or charges pursuant
6 to the provisions of K.S.A. 55-1807 et seq., and amendments thereto, to
7 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
8 and amendments thereto. Upon receipt of each such remittance, the state
9 treasurer shall deposit the entire amount in the state treasury to the credit
10 of the ~~state fire marshal~~ liquefied petroleum gas fee fund. All
11 expenditures from the ~~state fire marshal~~ liquefied petroleum gas fee fund
12 shall be made in accordance with appropriation acts upon warrants of the
13 director of accounts and reports issued pursuant to vouchers approved by
14 the ~~fire marshal or by a person or persons designated by the state fire~~
15 ~~marshal~~ *secretary of administration or the secretary's designee*.

16 Sec. 82. K.S.A. 65-429 is hereby amended to read as follows: 65-
17 429. Upon receipt of an application for license, the licensing agency shall
18 issue with the approval of the ~~state fire marshal~~ *division of facilities*
19 *management of the department of administration* a license provided the
20 applicant and the physical facilities of the medical care facility meet the
21 requirements established under this act. A license, unless suspended or
22 revoked, shall be renewable annually without charge upon the filing by
23 the licensee, and approval by the licensing agency, of an annual report
24 upon such uniform dates and containing such information in such form as
25 the licensing agency prescribes by rules and regulations. A medical care
26 facility which has been licensed by the licensing agency and which has
27 received certification for participation in federal reimbursement programs
28 and which has been accredited by the joint commission on accreditation
29 of health care organizations or the American osteopathic association may
30 be granted a license renewal based on such certification and accreditation.
31 The cost of administration of the medical care facilities licensure and risk
32 management program provisions of this act pursuant to K.S.A. 65-433
33 and 65-4921*et seq.*, and amendments thereto, shall be funded by an
34 annual assessment from the health care stabilization fund, which
35 assessment shall not exceed \$200,000 in any one fiscal year. The
36 licensing agency shall make an annual report to the health care
37 stabilization fund regarding the use of these funds. Each license shall be
38 issued only for the premises and persons or governmental units named in
39 the application and shall not be transferable or assignable except with the
40 written approval of the licensing agency. A separate license is not
41 required for two separate establishments which are located in the same or
42 contiguous counties, which provide the services required by K.S.A. 65-
43 431, and amendments thereto, and which are organized under a single

1 owner or governing board with a single designated administrator and
2 medical staff. Licenses shall be posted in a conspicuous place on the
3 licensed premises.

4 Sec. 83. K.S.A. 2010 Supp. 65-506 is hereby amended to read as
5 follows: 65-506. The secretary of health and environment shall serve
6 notice of the issuance, suspension or revocation of a license to conduct a
7 maternity center or child care facility to the secretary of social and
8 rehabilitation services, juvenile justice authority, department of education,
9 ~~office of the state fire marshal~~ *division of facilities management of the*
10 *department of administration*, county, city-county or multicounty
11 department of health, and to any licensed child placement agency or
12 licensed child care resource and referral agency serving the area where
13 the center or facility is located. A maternity center or child care facility
14 that has had a license suspended, revoked or denied by the secretary of
15 health and environment shall notify in writing the parents or guardians of
16 the enrollees of the suspension, revocation or denial. Neither the secretary
17 of social and rehabilitation services nor any other person shall place or
18 cause to be placed any maternity patient or child under 16 years of age in
19 any maternity center or child care facility not licensed by the secretary of
20 health and environment.

21 Sec. 84. K.S.A. 2010 Supp. 65-508 is hereby amended to read as
22 follows: 65-508. (a) Any maternity center or child care facility subject to
23 the provisions of this act shall: (1) Be properly heated, plumbed, lighted
24 and ventilated; (2) have plumbing, water and sewerage systems which
25 conform to all applicable state and local laws; and (3) be operated with
26 strict regard to the health, comfort, safety and social welfare of the
27 residents.

28 (b) Every maternity center or child care facility shall furnish or
29 cause to be furnished for the use of each resident and employee
30 individual towel, wash cloth, comb and individual drinking cup or
31 sanitary bubbling fountain, and toothbrushes for all other than infants,
32 and shall keep or require such articles to be kept at all times in a clean
33 and sanitary condition. Every maternity center or child care facility shall
34 comply with all applicable fire codes and rules and regulations of the
35 ~~state fire marshal~~ *division of facilities management of the department of*
36 *administration*.

37 (c) (1) The secretary of health and environment with the cooperation
38 of the secretary of social and rehabilitation services shall develop and
39 adopt rules and regulations for the operation and maintenance of
40 maternity centers and child care facilities. The rules and regulations for
41 operating and maintaining maternity centers and child care facilities shall
42 be designed to promote the health, safety and welfare of the residents
43 who are to be served in such facilities by ensuring safe and adequate

1 physical surroundings, healthful food, adequate handwashing, safe
2 storage of toxic substances and hazardous chemicals, sanitary diapering
3 and toileting, home sanitation, supervision and care of the residents by
4 capable, qualified persons of sufficient number, after hour care, an
5 adequate program of activities and services, sudden infant death
6 syndrome and safe sleep practices training, prohibition on corporal
7 punishment, crib safety, protection from electrical hazards, protection
8 from swimming pools and other water sources, fire drills, emergency
9 plans, safety of outdoor playground surfaces, door locks, safety gates and
10 transportation and such appropriate parental participation as may be
11 feasible under the circumstances. Boarding schools are excluded from
12 requirements regarding the number of qualified persons who must
13 supervise and provide care to residents. The notice of hearing on initial
14 rules and regulations proposed to be adopted to carry out the amendments
15 to this subsection (c)(1) by this act shall be published in the Kansas
16 register after February 14, 2011, but prior to March 11, 2011.

17 (2) Rules and regulations developed under this subsection shall
18 include provisions for the competent supervision and care of children in
19 child care facilities. For purposes of such rules and regulations,
20 competent supervision as this term relates to children less than five years
21 of age includes, but is not limited to, direction of activities, adequate
22 oversight including sight or sound monitoring, or both, physical
23 proximity to children, diapering and toileting practices; and for all
24 children, competent supervision includes, but is not limited to, planning
25 and supervision of daily activities, safe sleep practices, including, but not
26 limited to, visual or sound monitoring, periodic checking, emergency
27 response procedures and drills, illness and injury response procedures,
28 food service preparation and sanitation, playground supervision, pool and
29 water safety practices. The notice of hearing on initial rules and
30 regulations proposed to be adopted under this subsection (c)(2) shall be
31 published in the Kansas register after February 14, 2011, but prior to
32 March 11, 2011.

33 (d) Each child cared for in a child care facility, including children of
34 the person maintaining the facility, shall be required to have current such
35 immunizations as the secretary of health and environment considers
36 necessary. The person maintaining a child care facility shall maintain a
37 record of each child's immunizations and shall provide to the secretary of
38 health and environment such information relating thereto, in accordance
39 with rules and regulations of the secretary, but the person maintaining a
40 child care facility shall not have such person's license revoked solely for
41 the failure to have or to maintain the immunization records required by
42 this subsection.

43 (e) The immunization requirement of subsection (d) shall not apply

1 if one of the following is obtained:

2 (1) Certification from a licensed physician stating that the physical
3 condition of the child is such that immunization would endanger the
4 child's life or health; or

5 (2) a written statement signed by a parent or guardian that the parent
6 or guardian is an adherent of a religious denomination whose teachings
7 are opposed to immunizations.

8 Sec. 85. K.S.A. 65-34,105 is hereby amended to read as follows: 65-
9 34,105. (a) The secretary is authorized and directed to adopt rules and
10 regulations necessary to administer and enforce the provisions of this act.
11 Any rules and regulations so adopted shall be reasonably necessary to
12 preserve, protect and maintain the waters and other natural resources of
13 this state, and reasonably necessary to provide for the prompt
14 investigation and cleanup of sites contaminated by a release from a
15 storage tank. In addition, any rules and regulations or portions thereof
16 which pertain to underground storage tanks or the owners and operators
17 thereof shall be adopted for the purpose of enabling the secretary and the
18 department to implement the federal act, and such rules and regulations
19 so adopted shall be consistent with the federal act. Consistent with these
20 purposes, the secretary shall adopt rules and regulations:

21 (1) Establishing performance standards for underground storage
22 tanks first brought into use on or after May 18, 1989. The performance
23 standards for new underground storage tanks shall include, but are not
24 limited to, design, construction, installation, release detection and product
25 compatibility standards;

26 (2) establishing performance standards for aboveground storage
27 tanks brought into use after May 18, 1989. The performance standards
28 shall not exceed those performance standards adopted by the
29 administrator of the U.S. environmental protection agency and for new
30 aboveground storage tanks shall include, but are not limited to, design,
31 construction, installation, release detection and product compatibility
32 standards;

33 (3) establishing performance standards for the inground repair of
34 underground storage tanks. The performance standards shall include, but
35 are not limited to, specifying under what circumstances an underground
36 storage tank may be repaired and specifying design, construction,
37 installation, release detection, product compatibility standards and
38 warranty;

39 (4) establishing performance standards for maintaining spill and
40 overfill equipment, leak detection systems and comparable systems or
41 methods designed to prevent or identify releases. In addition, the
42 secretary shall establish standards for maintaining records and reporting
43 leak detection monitoring, inventory control and tank testing or

- 1 comparable systems;
- 2 (5) establishing requirements for reporting a release and for
3 reporting and taking corrective action in response to a release;
- 4 (6) establishing requirements for maintaining evidence of financial
5 responsibility to be met by owners and operators of underground storage
6 tanks;
- 7 (7) establishing requirements for the closure of storage tanks
8 including the removal and disposal of storage tanks and regulated
9 substance residues contained therein to prevent future releases of
10 regulated substances into the environment;
- 11 (8) for the approval of tank tightness testing methods, including
12 determination of the qualifications of persons performing or offering to
13 perform such testing;
- 14 (9) establishing site selection and cleanup criteria regarding
15 corrective actions related to a release, which criteria address the
16 following: The physical and chemical characteristics of the released
17 substance, including toxicity, persistence and potential for migration; the
18 hydrogeologic characteristics of the release site and the surrounding land;
19 the proximity, quality and current and future uses of groundwater; an
20 exposure assessment; the proximity, quality and current and future use of
21 surface water; and the level of the released substance allowed to remain
22 on the facility following cleanup;
- 23 (10) prescribing fees for the following with regard to storage tanks:
24 Registration, issuance of permits, approval of plans for new installations
25 and conducting of inspections. The fees shall be established in such
26 amounts that revenue from such fees does not exceed the amount of
27 revenue required for the purposes provided by subsection (b) of K.S.A.
28 65-34,128, *and amendments thereto*. All fees for underground storage
29 tanks shall be deposited in the state general fund and all fees for
30 aboveground storage tanks shall be deposited in the storage tank fee fund;
- 31 (11) for determining the qualifications, adequacy of performance
32 and financial responsibility of persons desiring to be licensed as
33 underground storage tank installers or contractors. In adopting rules and
34 regulations, the secretary may specify classes of specialized activities,
35 such as the installation of corrosion protection devices or inground
36 relining of underground storage tanks, and may require persons wishing
37 to engage in such activities to demonstrate additional qualifications to
38 perform these services;
- 39 (12) prescribing fees for the issuance of licenses to underground
40 storage tank installers and contractors. The fees shall be established in
41 such amounts that revenue from such fees does not exceed the amount of
42 revenue determined by the secretary to be required for administration of
43 the provisions of K.S.A. 65-34,110, and amendments thereto; and

1 (13) adopting schedules requiring the retrofitting of underground
2 storage tanks in existence on May 18, 1989, and aboveground storage
3 tanks in existence on July 1, 1992, and for the retirement from service of
4 underground storage tanks placed in service prior to May 18, 1989, and
5 aboveground storage tanks placed in service prior to July 1, 1992. Such
6 schedules shall be based on the age and location of the storage tank and
7 the type of substance stored. Such retrofitting shall include secondary
8 containment, corrosion protection, linings, leak detection equipment and
9 spill and overfill equipment.

10 (b) In adopting rules and regulations under this section, the secretary
11 shall take notice of rules and regulations pertaining to fire prevention and
12 safety adopted by the ~~state fire marshal~~ *secretary of administration*
13 pursuant to subsection (a)(1) of K.S.A. 31-133, and amendments thereto.

14 (c) Nothing in this section shall interfere with the right of a city or
15 county having authority to adopt a building or fire code from imposing
16 requirements more stringent than those adopted by the secretary pursuant
17 to subsections (a)(1), (2), (3), (7) and (13), or affect the exercise of
18 powers by cities, counties and townships regarding the location of storage
19 tanks and the visual compatibility of aboveground storage tanks with
20 surrounding property.

21 Sec. 86. K.S.A. 2010 Supp. 65-34,133 is hereby amended to read as
22 follows: 65-34,133. (a) There is hereby established the Kansas essential
23 ~~fuel~~ *fuels* supply trust fund compensation advisory board composed of
24 five members, including the ~~state fire marshal~~ or the ~~state fire marshal's~~
25 *secretary of administration or the secretary's* designee, the director of
26 the division of environment of the department or designee, two
27 representatives from the petroleum industry, at least one of which shall be
28 a petroleum marketer and one representative from the petroleum
29 equipment installation industry. The governor shall appoint the appointive
30 members of the board, and the members so appointed shall serve for
31 terms of the duration of fuels supply fund. The governor also shall
32 designate a member of the board as its chair, to serve in such capacity at
33 the pleasure of the governor. The secretary shall provide staff to support
34 the activities of the board.

35 (b) Appointed members of the board attending meetings of such
36 board, or attending a subcommittee meeting thereof, when authorized by
37 such board, shall receive the amounts provided in subsection (e) of
38 K.S.A. 75-3223, and amendments thereto.

39 (c) The board shall provide advice and counsel and make
40 recommendations to the secretary regarding disputes over the
41 disbursement of moneys from the Kansas essential ~~fuel~~ *fuels* supply trust
42 fund.

43 Sec. 87. K.S.A. 2010 Supp. 65-34,136 is hereby amended to read as

1 follows: 65-34,136. (a) As used in this section:

2 (1) "Facility" means all buildings, equipment, structures, tanks and
3 other stationary items which are located on a single site or on contiguous
4 or adjacent sites and which are owned or operated by the same person or
5 by any person which controls, is controlled by or under common control
6 with such person, upon which one or more nonfuel flammable or
7 combustible liquid aboveground storage tank system or systems is
8 located, with bulk storage stations and terminals having a bulk storage
9 total capacity of 10,000 gallons or more of flammable or combustible
10 liquids.

11 (2) "Nonfuel flammable or combustible liquid" means flammable or
12 combustible liquids not used for fuel including, but not limited to,
13 solvents. "Nonfuel flammable or combustible liquid" shall not include the
14 following compounds: New and used motor oil, transmission fluid,
15 hydraulic oil, grease and lube oil; asphalt; asphalt emulsion; road oil;
16 crude oil; mineral oil; processed fat; food grade oil; vegetable oil; and
17 ethylene glycol.

18 (3) "Nonfuel flammable or combustible liquid aboveground storage
19 tank system" means an aboveground storage tank system that contains
20 nonfuel flammable or combustible liquids.

21 (4) *"Division of facilities management" means the division of*
22 *facilities management of the department of administration.*

23 (b) (1) On or before July 1, 2009, the ~~state fire marshal~~ *division of*
24 *facilities management* shall conduct an on-site inspection of each facility
25 in existence on the effective date of this section to determine compliance
26 with all standards concerning flammable and combustible liquids
27 contained in national fire protection association pamphlet no. 30, 2008
28 edition, and all rules and regulations concerning aboveground storage
29 tanks.

30 (2) If the ~~state fire marshal~~ *division of facilities management*
31 determines that a facility is in compliance with such standards, rules and
32 regulations, the ~~state fire marshal~~ *division of facilities management* shall
33 conduct an on-site inspection of the facility at least once every three years
34 thereafter to determine continued compliance with such standards, rules
35 and regulations.

36 (3) If the ~~state fire marshal~~ *division of facilities management*
37 determines that a facility is not in compliance with such standards, rules
38 and regulations, the facility shall make all changes necessary to comply
39 with such standards, rules and regulations as soon as practicable, but no
40 later than July 1, 2012. Upon notification of compliance by the facility,
41 but no later than July 1, 2012, the ~~state fire marshal~~ *division of facilities*
42 *management* shall conduct an on-site inspection of the facility to
43 determine compliance. Upon determination of compliance, the ~~state fire~~

1 ~~marshal~~ *division of facilities management* shall conduct an on-site
2 inspection of the facility at least once every three years thereafter to
3 determine continued compliance with such standards, rules and
4 regulations.

5 (c) (1) An application and plan for design, construction, major
6 modification and installation of all nonfuel flammable or combustible
7 liquid aboveground storage tank facilities after the effective date of this
8 section shall be submitted to the ~~state fire marshal~~ *division of facilities*
9 *management*. Construction, major modification and installation of such
10 facilities shall not commence until such application and plan is reviewed
11 and approved by the ~~state fire marshal~~ *division of facilities management*
12 in accordance with rules and regulations.

13 (2) The ~~state fire marshal~~ *division of facilities management* shall
14 approve or deny such submitted applications and plans within 20 business
15 days upon receipt of all necessary documentation as provided for in rules
16 and regulations. If the ~~state fire marshal~~ *division of facilities management*
17 requests additional information from the applicant, the ~~state fire marshal~~
18 *division of facilities management* shall have an additional 20 business
19 days from the day of receipt of such information to approve or deny the
20 submitted application and plan.

21 (3) The ~~state fire marshal~~ *division of facilities management* shall
22 conduct an on-site inspection of each facility constructed after the
23 effective date of this section, before such facility begins operation, to
24 determine compliance with all standards concerning flammable and
25 combustible liquids contained in national fire protection association
26 pamphlet no. 30, 2008 edition, and all rules and regulations concerning
27 aboveground storage tanks. Such facility shall not begin operation until
28 the ~~state fire marshal~~ *division of facilities management* makes a
29 determination of compliance. Upon determination of compliance, the
30 ~~state fire marshal~~ *division of facilities management* shall conduct an on-
31 site inspection of the facility at least once every three years thereafter to
32 determine continued compliance with such standards, rules and
33 regulations.

34 (d) On and after July 1, 2012, if the ~~state fire marshal~~ *division of*
35 *facilities management* determines that a facility is not in compliance with
36 all standards concerning flammable and combustible liquids contained in
37 national fire protection association pamphlet no. 30, 2008 edition, and all
38 rules and regulations concerning aboveground storage tanks, such facility
39 shall be subject to a fine of \$100 per tank every 30 days until the ~~state fire~~
40 ~~marshal~~ *division of facilities management* makes a determination of
41 compliance. All fines assessed and collected under this section shall be
42 remitted to the state treasurer in accordance with the provisions of K.S.A.
43 75-4215, and amendments thereto. Upon receipt of each such remittance,

1 the state treasurer shall deposit the entire amount in the state treasury to
2 the credit of the non-fuel flammable or combustible liquid aboveground
3 storage tank system fund.

4 (e) The ~~state fire marshal~~ *division of facilities management* shall
5 report annually to the senate standing committee on natural resources and
6 the house of representatives standing committee on agriculture and
7 natural resources regarding inspections and compliance pursuant to this
8 section.

9 (f) On or before September 1, 2008, the ~~state fire marshal~~ *secretary*
10 *of administration* shall adopt rules and regulations necessary to
11 administer and enforce the provisions of this section. Such rules and
12 regulations shall include adoption of all standards concerning flammable
13 and combustible liquids contained in national fire protection association
14 pamphlet no. 30, 2008 edition.

15 (g) The ~~state fire marshal~~ *secretary of administration* shall adopt
16 rules and regulations specifying subsequent editions of national fire
17 protection association pamphlet no. 30 which the ~~state fire marshal~~
18 *secretary* has determined to be equivalent to the 2008 edition.
19 Compliance with any subsequent edition specified by such rules and
20 regulations shall be considered compliance with the 2008 edition
21 specified in this section.

22 (h) This section shall be part of and supplemental to the Kansas
23 storage tank act.

24 Sec. 88. K.S.A. 2010 Supp. 65-34,137 is hereby amended to read as
25 follows: 65-34,137. (a) There is hereby established as a segregated fund
26 in the state treasury the nonfuel flammable or combustible liquid
27 aboveground storage tank system fund. Revenue from the fines assessed
28 pursuant to K.S.A. 2010 Supp. 65-34,136, and amendments thereto, shall
29 be deposited in the state treasury and credited to the fund.

30 (b) Moneys in the nonfuel flammable or combustible liquid
31 aboveground storage tank system fund shall be expended only for
32 administration and enforcement of the provisions of K.S.A. 2010 Supp.
33 65-34,136, and amendments thereto.

34 (c) All expenditures from the nonfuel flammable or combustible
35 liquid aboveground storage tank system fund shall be made in accordance
36 with appropriation acts upon warrants of the director of accounts and
37 reports issued pursuant to vouchers approved by the ~~state fire marshal~~
38 *secretary of administration or the secretary's designee*.

39 (d) This section shall be part of and supplemental to the Kansas
40 storage tank act.

41 Sec. 89. K.S.A. 2010 Supp. 65-5703 is hereby amended to read as
42 follows: 65-5703. (a) There is hereby created the state emergency
43 response commission for the purpose of carrying out all requirements of

1 the federal act and for the purpose of providing assistance in the
2 coordination of state agency activities relating to: (1) Chemical
3 emergency training, preparedness, and response; and (2) chemical release
4 reporting and prevention, transportation, manufacture, storage, handling,
5 and use.

6 (b) The commission shall consist of: (1) The following state officers
7 or their appointed designees: The lieutenant governor, the secretary of
8 wildlife and parks, the secretary of labor, the secretary of agriculture, the
9 secretary of health and environment, the adjutant general, the
10 superintendent of the Kansas highway patrol, ~~the state fire marshal~~, the
11 secretary of transportation, the attorney general, the chairperson of the
12 state corporation commission; and the governor; (2) three members
13 appointed by the governor to represent the general public; and (3) two
14 members appointed by the governor to represent owners and operators of
15 facilities regulated pursuant to this act.

16 (c) Members of the commission appointed by the governor shall
17 serve for terms of two years. Any vacancy in the office of an appointed
18 member of the commission shall be filled for the unexpired term by
19 appointment by the governor.

20 (d) A chairperson shall be elected annually by the members of the
21 commission. A vice-chairperson shall be designated by the chairperson to
22 serve in the absence of the chairperson.

23 (e) Members of the commission attending meetings of such board,
24 or attending a subcommittee meeting thereof authorized by such board,
25 shall be paid compensation, subsistence allowances, mileage and other
26 expenses as provided in K.S.A. 75-3223, and amendments thereto.

27 (f) The commission shall perform such duties as are specified in the
28 federal act to be performed by such commissions and, in addition thereto,
29 such duties as are specified in the laws of this state or as are deemed
30 necessary and appropriate by the commission to achieving its purposes.
31 In accordance with the requirements of the federal act, the commission
32 shall establish local planning districts, subject to approval by the
33 secretary of health and environment and the adjutant general, and shall
34 appoint a local planning committee for each such district. Local planning
35 committees shall perform such duties as are specified in the federal act to
36 be performed by such committees, and in addition thereto, such duties as
37 are assigned by the commission or by any member of the commission
38 acting on behalf of or at the direction of the commission, or as are
39 deemed necessary and appropriate by each such committee to achieving
40 its purposes. The duties of the commission and the local planning
41 committees shall be performed in accordance with rules and regulations
42 adopted pursuant to this act.

43 Sec. 90. K.S.A. 2010 Supp. 74-4911f is hereby amended to read as

1 follows: 74-4911f. (a) Subject to procedures or limitations prescribed by
2 the governor, any person who is not an employee and who becomes a
3 state officer may elect to not become a member of the system. The
4 election to not become a member of the system must be filed within 90
5 days of assuming the position of state officer. Such election shall be
6 irrevocable. If such election is not filed by such state officer, such state
7 officer shall be a member of the system.

8 (b) Any such state officer who is a member of the Kansas public
9 employees retirement system, on or after the effective date of this act,
10 may elect to not be a member by filing an election with the office of the
11 retirement system. The election to not become a member of the system
12 must be filed within 90 days of assuming the position of state officer. If
13 such election is not filed by such state officer, such state officer shall be a
14 member of the system.

15 (c) Subject to limitations prescribed by the board, the state agency
16 employing any employee who has filed an election as provided under
17 subsection (a) or (b) and who has entered into an employee participation
18 agreement, as provided in K.S.A. 2010 Supp. 74-49b10, and amendments
19 thereto, for deferred compensation pursuant to the Kansas public
20 employees deferred compensation plan shall contribute to such plan on
21 such employee's behalf an amount equal to 8% of the employee's salary,
22 as such salary has been approved pursuant to K.S.A. 75-2935b, and
23 amendments thereto, or as otherwise prescribed by law. With regard to a
24 state officer who is a member of the legislature who has retired pursuant
25 to the Kansas public employees retirement system and who files an
26 election as provided in this section, employee's salary means per diem
27 compensation as provided by law as a member of the legislature.

28 (d) As used in this section and K.S.A. 74-4927k, and amendments
29 thereto, "state officer" means the secretary of administration, secretary on
30 aging, secretary of commerce, secretary of corrections, secretary of health
31 and environment, secretary of labor, secretary of revenue, secretary of
32 social and rehabilitation services, secretary of transportation, secretary of
33 wildlife and parks, superintendent of the Kansas highway patrol,
34 secretary of agriculture, executive director of the Kansas lottery,
35 executive director of the Kansas racing commission, president of the
36 Kansas development finance authority, ~~state fire marshal~~, state librarian,
37 securities commissioner, adjutant general, judges and chief hearing
38 officer of the state court of tax appeals, members of the Kansas parole
39 board, members of the state corporation commission, any unclassified
40 employee on the staff of officers of both houses of the legislature, any
41 unclassified employee appointed to the governor's or lieutenant
42 governor's staff, any person employed by the legislative branch of the
43 state of Kansas, other than any such person receiving service credited

1 under the Kansas public employees retirement system or any other
2 retirement system of the state of Kansas therefor, who elected to be
3 covered by the provisions of this section as provided in subsection (e) of
4 K.S.A. 46-1302, and amendments thereto, or who is first employed on or
5 after July 1, 1996, by the legislative branch of the state of Kansas and any
6 member of the legislature who has retired pursuant to the Kansas public
7 employees retirement system.

8 (e) The provisions of this section shall not apply to any state officer
9 who has elected to remain eligible for assistance by the state board of
10 regents as provided in subsection (a) of K.S.A. 74-4925, and amendments
11 thereto.

12 Sec. 91. K.S.A. 2010 Supp. 74-5602 is hereby amended to read as
13 follows: 74-5602. As used in the Kansas law enforcement training act:

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

17 (b) "Commission" means the Kansas commission on peace officers'
18 standards and training, created by K.S.A. 74-5606, and amendments
19 thereto.

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

22 (d) "Director of police training" means the director of police training
23 at the law enforcement training center.

24 (e) "Director" means the executive director of the Kansas
25 commission on peace officers' standards and training.

26 (f) "Law enforcement" means the prevention or detection of crime
27 and the enforcement of the criminal or traffic laws of this state or of any
28 municipality thereof.

29 (g) "Police officer" or "law enforcement officer" means a full-time
30 or part-time salaried officer or employee of the state, a county or a city,
31 whose duties include the prevention or detection of crime and the
32 enforcement of the criminal or traffic laws of this state or of any
33 municipality thereof. Such terms shall include, but not be limited to, the
34 sheriff, undersheriff and full-time or part-time salaried deputies in the
35 sheriff's office in each county; deputy sheriffs deputized pursuant to
36 K.S.A. 19-2858, and amendments thereto; conservation officers of the
37 Kansas department of wildlife and parks; university police officers, as
38 defined in K.S.A. 22-2401a, and amendments thereto; campus police
39 officers, as defined in K.S.A. 22-2401a, and amendments thereto; law
40 enforcement agents of the director of alcoholic beverage control; law
41 enforcement agents designated by the secretary of revenue pursuant to
42 K.S.A. 2010 Supp. 75-5157, and amendments thereto; law enforcement
43 agents of the Kansas lottery; law enforcement agents of the Kansas racing

1 ~~commission; deputies and assistants of the state fire marshal having law~~
2 ~~enforcement authority;~~ capitol police, existing under the authority of
3 K.S.A. 75-4503, and amendments thereto; and law enforcement officers
4 appointed by the adjutant general pursuant to K.S.A. 48-204, and
5 amendments thereto. Such terms shall also include railroad policemen
6 appointed pursuant to K.S.A. 66-524, and amendments thereto; school
7 security officers designated as school law enforcement officers pursuant
8 to K.S.A. 72-8222, and amendments thereto; the manager and employees
9 of the horsethief reservoir benefit district pursuant to K.S.A. 2010 Supp.
10 82a-2212, and amendments thereto; and the director of the Kansas
11 commission on peace officers' standards and training and any other
12 employee of such commission designated by the director pursuant to
13 K.S.A. 74-5603, and amendments thereto, as a law enforcement officer.
14 Such terms shall not include any elected official, other than a sheriff,
15 serving in the capacity of a law enforcement or police officer solely by
16 virtue of such official's elected position; any attorney-at-law having
17 responsibility for law enforcement and discharging such responsibility
18 solely in the capacity of an attorney; any employee of the commissioner
19 of juvenile justice, the secretary of corrections or the secretary of social
20 and rehabilitation services; any deputy conservation officer of the Kansas
21 department of wildlife and parks; or any employee of a city or county
22 who is employed solely to perform correctional duties related to jail
23 inmates and the administration and operation of a jail; or any full-time or
24 part-time salaried officer or employee whose duties include the issuance
25 of a citation or notice to appear provided such officer or employee is not
26 vested by law with the authority to make an arrest for violation of the
27 laws of this state or any municipality thereof, and is not authorized to
28 carry firearms when discharging the duties of such person's office or
29 employment. Such term shall include any officer appointed or elected on
30 a provisional basis.

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

33 (i) "Part-time" means employment on a regular schedule or
34 employment which requires a minimum number of hours each payroll
35 period, but in any case requiring less than 1,000 hours of law
36 enforcement related work per year.

37 (j) "Misdemeanor crime of domestic violence" means a violation of
38 domestic battery as provided by K.S.A. 21-3412a, and amendments
39 thereto, or any other misdemeanor under federal, municipal or state law
40 that has as an element the use or attempted use of physical force, or the
41 threatened use of a deadly weapon, committed by a current or former
42 spouse, parent, or guardian of the victim, by a person with whom the
43 victim shares a child in common, by a person who is cohabiting with or

1 has cohabited with the victim as a spouse, parent or guardian, or by a
2 person similarly situated to a spouse, parent or guardian of the victim.

3 (k) "Auxiliary personnel" means members of organized nonsalaried
4 groups which operate as an adjunct to a police or sheriff's department,
5 including reserve officers, posses and search and rescue groups.

6 (l) "Active law enforcement certificate" means a certificate which
7 attests to the qualification of a person to perform the duties of a law
8 enforcement officer and which has not been suspended or revoked by
9 action of the Kansas commission on peace officers' standards and training
10 and has not lapsed by operation of law as provided in K.S.A. 74-5622,
11 and amendments thereto.

12 Sec. 92. K.S.A. 2010 Supp. 74-8841 is hereby amended to read as
13 follows: 74-8841. (a) A racetrack facility shall not be subject to
14 subdivision regulations of a city but shall be subject to the Kansas fire
15 prevention code adopted by the ~~state fire marshal~~ *division of facilities*
16 *management of the department of administration*.

17 (b) This section shall be part of and supplemental to the Kansas
18 parimutuel racing act.

19 Sec. 93. K.S.A. 2010 Supp. 75-1508 is hereby amended to read as
20 follows: 75-1508. (a) For the purpose of maintaining the ~~department of~~
21 ~~the state fire marshal~~ *division of facilities management of the department*
22 *of administration in its performance of those functions transferred to the*
23 *division of facilities management of the department of administration*
24 *pursuant to section 2, and amendments thereto, and the payment of*
25 *expenses incidental thereto, the Kansas bureau of investigation in its*
26 *performance of those functions transferred to the Kansas bureau of*
27 *investigation pursuant to section 5, and amendments thereto, and the*
28 *payment of expenses incidental thereto, and the division of emergency*
29 *management of the office of the adjutant general in its performance of*
30 *those functions transferred to the division of emergency management of*
31 *the office of the adjutant general pursuant to section 8, and amendments*
32 *thereto, and the payment of the expenses ~~incident~~ incidental thereto, each*
33 *fire insurance company doing business in this state shall pay to the*
34 *commissioner of insurance, on or before March 15 each year, in addition*
35 *to the taxes, fees and charges now required by law to be paid by it, such*
36 *levy as may be made by the ~~state fire marshal~~ secretary of*
37 *administration. The levy shall not be more than .80% for calendar year*
38 *2004, and each calendar year thereafter, of a sum equal to the gross cash*
39 *receipts as premiums of such company on all fire business transacted by*
40 *it in the state of Kansas during the calendar year next preceding, as*
41 *shown by its annual statement under oath to the state insurance*
42 *department.*

43 (b) For the purposes of maintaining the emergency medical services

1 board and the payment of the expenses ~~incident~~ *incidental* thereto, each
2 fire insurance company doing business in this state shall pay to the
3 commissioner of insurance, on or before March 15 each year, beginning
4 with calendar year 2002 and each calendar year thereafter, in addition to
5 the taxes, fees and charges now required by law to be paid by it, such
6 levy as may be made by the emergency medical services board. The levy
7 shall not be more than .25% of a sum equal to the gross cash receipts as
8 premiums of such company on all fire business transacted by it in the
9 state of Kansas during the calendar year next preceding, as shown by its
10 annual statement to the state insurance department generated by or at the
11 direction of its president and secretary or other chief officers under
12 penalty of K.S.A. 21-3711, and amendments thereto.

13 (c) For the purposes of maintaining the fire service training program
14 of the university of Kansas and the payment of the expenses ~~incident~~
15 *incidental* thereto, each fire insurance company doing business in this
16 state shall pay to the commissioner of insurance, on or before March 15
17 each year, beginning with calendar year 2004, and each calendar year
18 thereafter, in addition to the taxes, fees and charges now required by law
19 to be paid by it, such levy as may be made by the Kansas fire service
20 training commission. The levy shall not be more than .20% of a sum
21 equal to the gross cash receipts as premiums of such company on all fire
22 business transacted by it in the state of Kansas during the calendar year
23 next preceding, as shown by its annual statement under oath to the state
24 insurance department.

25 (d) The director of the fire service training program of the university
26 of Kansas shall submit a report concerning expenditures and activities of
27 the fire service training program of the university of Kansas to the house
28 committee on appropriations on or before February 1, 2005, and each
29 ensuing year thereafter.

30 Sec. 94. K.S.A. 2010 Supp. 75-1514 is hereby amended to read as
31 follows: 75-1514. (a) The commissioner of insurance shall remit all
32 moneys received by the commissioner under subsection (a) of K.S.A. 75-
33 1508, and amendments thereto, to the state treasurer in accordance with
34 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
35 of each such remittance, the state treasurer shall deposit the entire amount
36 in the state treasury to the credit of the ~~fire marshal~~ *fire prevention* fee
37 fund for the fiscal years ending June 30, 2003, and June 30, 2004, and the
38 state treasurer shall credit 20% of each such deposit to the state general
39 fund and shall credit the remainder of each such deposit to the fire
40 marshal fee fund for the fiscal year ending June 30, 2005, and ensuing
41 fiscal years. (b) ~~There is hereby created the fire marshal fee fund in the~~
42 ~~state treasury. , which fund is hereby created in the state treasury and~~
43 ~~shall be administered by the secretary of administration for the division~~

1 of facilities management of the department of administration. All
2 expenditures from the ~~fire marshal~~ fire prevention fee fund by the
3 division of facilities management of the department of administration
4 shall be made in accordance with the provisions of appropriations acts
5 upon warrants of the director of accounts and reports issued pursuant to
6 vouchers approved by the ~~state fire marshal or a person or persons~~
7 ~~designated by the state fire marshal~~ secretary of administration, or the
8 secretary's designee.

9 (b) (1) The state treasurer shall credit 21% of all moneys credited to
10 the fire prevention fee fund pursuant to subsection (a), excluding moneys
11 transferred to the department of health and environment for the y-fire
12 program, to the KBI fire investigation fund to be expended by the Kansas
13 bureau of investigation in the performance of those functions transferred
14 to the Kansas bureau of investigation pursuant to section 5, and
15 amendments thereto.

16 (2) The state treasurer shall credit 22% of all moneys credited to the
17 fire prevention fee fund pursuant to subsection (a), excluding moneys
18 transferred to the department of health and environment for the y-fire
19 program, to the hazardous materials emergency fund to be expended by
20 the division of emergency management of the office of the adjutant
21 general in the performance of those functions transferred to the division
22 of emergency management of the office of the adjutant general pursuant
23 to section 8, and amendments thereto.

24 (c) The commissioner of insurance shall remit all moneys received
25 by the commissioner under subsection (b) of K.S.A. 75-1508, and
26 amendments thereto, to the state treasurer in accordance with the
27 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
28 each such remittance, the state treasurer shall deposit the entire amount in
29 the state treasury to the credit of the emergency medical services board
30 operating fund.

31 (d) The commissioner of insurance shall remit all moneys received
32 by the commissioner under subsection (c) of K.S.A. 75-1508, and
33 amendments thereto, to the state treasurer in accordance with the
34 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
35 each such remittance, the state treasurer shall deposit the entire amount in
36 the state treasury to the credit of the fire service training program fund.

37 Sec. 95. K.S.A. 75-1515 is hereby amended to read as follows: 75-
38 1515. The attorney general shall appoint, with the approval of the ~~state~~
39 ~~fire marshal~~ secretary of administration, an assistant attorney general
40 who shall be the attorney for the ~~state fire marshal and the office of the~~
41 ~~state fire marshal~~ division of facilities management of the department of
42 administration. Such attorney shall receive an annual salary fixed by the
43 attorney general with the approval of the ~~state fire marshal~~ secretary of

1 *administration.* Such salary shall be paid from moneys appropriated for
2 ~~the state fire marshal.~~ *division of facilities management of the department*
3 *of administration.*

4 Sec. 96. K.S.A. 2010 Supp. 75-1517 is hereby amended to read as
5 follows: 75-1517. (a) If, upon inspection for compliance with federal law
6 pursuant to oversight by the centers for medicare and medicaid services
7 of a medical care facility, adult care home, assisted living facility or
8 special hospital by ~~an officer of the state fire marshal~~ *the division of*
9 *facilities management of the department of administration,* deficiencies
10 are found, such medical care facility, adult care home, assisted living
11 facility or special hospital within 10 calendar days after receipt of the
12 statement of deficiencies, may make a written request to the ~~state fire~~
13 ~~marshal~~ *division of facilities management of the department of*
14 *administration* for informal dispute resolution. The medical care facility,
15 adult care home, assisted living facility or special hospital may make not
16 more than one request for a two-tier informal dispute resolution per
17 inspection to dispute any deficiencies with which such medical care
18 facility, adult care home, assisted living facility or special hospital
19 disagrees, based on the statement of deficiencies and any other materials
20 submitted, except that such medical care facility, adult care home,
21 assisted living facility or special hospital shall have an opportunity to
22 supplement such material prior to a disposition of the claim. The ~~state fire~~
23 ~~marshal~~ *division of facilities management of the department of*
24 *administration* shall hold an informal dispute resolution meeting with
25 such medical care facility, adult care home, assisted living facility or
26 special hospital in person upon request of the medical care facility, adult
27 care home, assisted living facility or special hospital. The first-tier of the
28 informal dispute resolution shall be conducted within 30 days of receipt
29 of the written request from the medical care facility, adult care home,
30 assisted living facility or special hospital. The medical care facility, adult
31 care home, assisted living facility or special hospital shall be notified of
32 the results of the first-tier informal dispute resolution on or before 10
33 days of the disposition being rendered.

34 (b) A written request for informal dispute resolution shall:

35 (1) State the specific deficiencies being disputed;

36 (2) provide a detailed explanation of the basis for the dispute; and

37 (3) include any supporting documentation, including any
38 information that was not available at the time of the inspection.

39 (c) The medical care facility, adult care home, assisted living facility
40 or special hospital may challenge the decision of the first-tier informal
41 dispute resolution and may request completion of the second-tier of
42 informal dispute resolution by a three-person panel appointed by the ~~state~~
43 ~~fire marshal.~~ *division of facilities management of the department of*

1 *administration*. No more than one panel member shall be an employee of
2 the ~~state fire marshal~~ *division of facilities management of the department*
3 *of administration*, and such member shall not be the person who
4 conducted the first-tier of the informal dispute resolution. At least two
5 panel members shall not be employees of the ~~state fire marshal~~ *division*
6 *of facilities management of the department of administration* and shall
7 have suitable expertise to review the disputed deficiency or deficiencies.
8 The second-tier informal dispute resolution shall take place within 30
9 days of the request by the medical care facility, adult care home, assisted
10 living facility or special hospital. The medical care facility, adult care
11 home, assisted living facility or special hospital shall be notified of the
12 results of the second-tier informal dispute resolution within 10 days of the
13 disposition being rendered.

14 (d) The ~~state fire marshal~~ *division of facilities management of the*
15 *department of administration* may fix, charge and collect a fee from a
16 medical care facility, adult care home, assisted living facility or special
17 hospital requesting a second-tier informal dispute resolution review panel
18 to recover all or part of the costs incurred by ~~state fire marshal~~ *the*
19 *division of facilities management of the department of administration* for
20 holding such second-tier informal dispute resolution panel under this
21 section that shall not exceed \$250.

22 (e) Any decision or proposed resolution of the informal dispute
23 resolution panel under this section shall be advisory to the ~~state fire~~
24 ~~marshal~~ *division of facilities management of the department of*
25 *administration*.

26 (f) The ~~state fire marshal~~ *secretary of administration* shall adopt
27 rules and regulations to implement the provisions of this section.

28 (g) As used in this section:

29 (1) "Assisted living facility" shall have the meaning ascribed thereto
30 in K.S.A. 39-923, and amendments thereto;

31 (2) "medical care facility" shall have the meaning ascribed thereto in
32 K.S.A. 65-425, and amendments thereto;

33 (3) "adult care home" shall have the meaning ascribed thereto in
34 K.S.A. 39-923, and amendments thereto; and

35 (4) "special hospital" shall have the meaning ascribed thereto in
36 K.S.A. 65-425, and amendments thereto.

37 Sec. 97. K.S.A. 2010 Supp. 75-3170a is hereby amended to read as
38 follows: 75-3170a. (a) The 20% credit to the state general fund required
39 by K.S.A. 1-204, 2-3506, 9-1703, 16-609, 16a-2-302, 17-2236, 17-5609,
40 17-5610, 17-5612, 17-5701, 20-1a02, 20-1a03, ~~31-133a, 31-134,~~ 44-324,
41 44-926, 47-820, 49-420, 55-155, 55-176, 55-609, 55-711, 55-901, 58-
42 2011, 58-3074, 58-4107, 65-6b10, 65-1718, 65-1817a, 65-2011, 65-2855,
43 65-2911, 65-4610, 65-5413, 65-5513, 66-1,155, 66-1503, 74-715, 74-

1 1108, 74-1405, 74-1503, 74-1609, 74-2704, 74-3903, 74-5805, 74-7009,
2 74-7506, 75-1119b, 75-1308, ~~75-1514~~, 84-9-411 and 84-9-413, and
3 K.S.A. 2010 Supp. 17-12a601, and amendments thereto, is to reimburse
4 the state general fund for accounting, auditing, budgeting, legal, payroll,
5 personnel and purchasing services, and any and all other state
6 governmental services, which are performed on behalf of the state agency
7 involved by other state agencies which receive appropriations from the
8 state general fund to provide such services.

9 (b) Nothing in this act or in the sections amended by this act or
10 referred to in subsection (a), shall be deemed to authorize remittances to
11 be made less frequently than is authorized under K.S.A. 75-4215 and
12 amendments thereto.

13 (c) Notwithstanding any provision of any statute referred to in or
14 amended by this act or referred to in subsection (a), whenever in any
15 fiscal year such 20% credit to the state general fund in relation to any
16 particular fee fund is \$200,000, in that fiscal year the 20% credit no
17 longer shall apply to moneys received from sources applicable to such fee
18 fund and for the remainder of such year the full 100% so received shall
19 be credited to such fee fund, ~~except as otherwise provided in subsection~~
20 ~~(d) and except that during the fiscal year ending June 30, 1993, with~~
21 ~~respect to the fire marshal fee fund, when the 20% credit to the state~~
22 ~~general fund prescribed by K.S.A. 31-133a, 31-134 and 75-1514 and~~
23 ~~amendments thereto, in the aggregate, is \$400,000, then in that fiscal year~~
24 ~~such 20% credit no longer shall apply to moneys received from sources~~
25 ~~applicable to the fire marshal fee fund and for the remainder of such~~
26 ~~fiscal year the full 100% so received shall be credited to the fire marshal~~
27 ~~fee fund.~~

28 Sec. 98. K.S.A. 2010 Supp. 75-36,102 is hereby amended to read as
29 follows: 75-36,102. (a) There shall be placed on state property within the
30 state capitol plaza area a memorial to Kansas firefighters who have lost
31 their lives in the line of duty in the service of the state. Such memorial
32 shall be located at a site to be selected by the director. Such memorial
33 shall be constructed in accordance with the design and architectural
34 drawings approved by the director. The memorial shall be of such a
35 design that the names of the firefighters to be honored, both past and
36 future, may be inscribed thereon. The director shall cause annually the
37 name or names of any firefighters who have lost their lives in the line of
38 duty in the service of the state to be inscribed upon the memorial. The
39 memorial for Kansas firefighters is subject to the provisions, procedures
40 and approvals required under K.S.A. 2010 Supp. 75-36,102 through 75-
41 36,106, and amendments thereto, except that such memorial for Kansas
42 firefighters is hereby authorized by the legislature for purposes of
43 subsection (b) of K.S.A. 2010 Supp. 75-36,106, and amendments thereto.

1 (b) It shall be the duty of the ~~state fire marshal~~ *division of facilities*
2 *management of the department of administration* on or before the 15th
3 day of March of each year to notify the secretary of administration of the
4 name or names of any firefighters who lost their lives in the line of duty
5 during the preceding calendar year. The ~~state fire marshal~~ *division of*
6 *facilities management of the department of administration* shall assemble
7 the necessary information regarding any such firefighter and report the
8 same to the director.

9 (c) The secretary of administration is hereby authorized to receive
10 any grants, gifts, contributions or bequests made for the purpose of
11 financing the construction of such memorial or for its upkeep and the
12 addition of names thereto and to expend the same for the purpose for
13 which received.

14 (d) There is hereby established in the state treasury the Kansas
15 firefighters memorial fund. Expenditures from the fund may be made for
16 the purposes of constructing, updating and repairing such memorial, for
17 other purposes related to memorializing and honoring Kansas firefighters
18 and for such purposes as may be specified with regard to any grant, gift,
19 contribution or bequest. All such expenditures shall be authorized by the
20 Kansas firefighters memorial advisory committee and made upon
21 warrants of the director of accounts and reports issued pursuant to
22 vouchers approved by the secretary of administration or the secretary's
23 designee.

24 (e) On or before the 10th of each month, the director of accounts and
25 reports shall transfer from the state general fund to the Kansas firefighters
26 memorial fund interest earnings based on:

27 (1) The average daily balance of moneys in the Kansas firefighters
28 memorial fund for the preceding month; and

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

31 Sec. 99. K.S.A. 2010 Supp. 75-36,103 is hereby amended to read as
32 follows: 75-36,103. (a) There is hereby established the Kansas
33 firefighters memorial advisory committee which shall be composed of
34 nine members as follows:

35 (1) A representative of the Kansas state firefighters association,
36 appointed by the governor;

37 (2) a representative of the Kansas state association of fire chiefs,
38 appointed by the governor;

39 (3) a representative of the Kansas professional fire chiefs
40 association, appointed by the governor;

41 (4) a representative of the Kansas council of firefighters, appointed
42 by the governor;

43 (5) a representative of the fire education association of Kansas,

1 appointed by the governor;

2 (6) a representative of the Kansas chapter of the international
3 association of arson investigators, appointed by the governor;

4 (7) a representative of the fire marshal's association of Kansas,
5 appointed by the governor;

6 (8) ~~the state fire marshal or the marshal's~~ *secretary of administration*
7 *or the secretary's designee, who shall have experience and expertise in*
8 *fire service; and*

9 (9) the executive director of the Kansas state historical society or the
10 executive director's designee.

11 (b) With regard to a member to be appointed by the governor as a
12 representative of the Kansas state firefighters association, Kansas state
13 association of fire chiefs, the Kansas professional fire chiefs association,
14 the Kansas council of firefighters, fire education association of Kansas,
15 the Kansas chapter of the international association of arson investigators,
16 or the fire marshal's association of Kansas, the association or group to be
17 represented may submit a list of at least three names for consideration by
18 the governor in making the appointment. The governor shall consider
19 each such list if timely submitted and may appoint from among those
20 listed.

21 (c) The Kansas firefighters memorial advisory committee shall be
22 advisory to the director and the secretary of administration with regard to
23 matters concerning the memorial to Kansas firefighters on the state
24 capitol grounds. The advisory committee also may make
25 recommendations to the governor and the legislature regarding
26 appropriate activities memorializing or commemorating the services of
27 firefighters in Kansas. The advisory committee may solicit grants, gifts,
28 contributions and bequests for the memorial and shall remit all moneys so
29 received for deposit in the state treasury to the credit of the Kansas
30 firefighters memorial fund in accordance with K.S.A. 2010 Supp. 75-
31 36,102, and amendments thereto.

32 (d) The members of the advisory committee shall organize annually
33 by electing a chairperson and vice-chairperson. The advisory committee
34 shall meet at least once each year upon call of the chairperson. The
35 secretary of administration, or the secretary's designee, shall serve as
36 secretary for the advisory committee. Members of the advisory committee
37 appointed by the governor under this section shall serve at the pleasure of
38 the governor.

39 Sec. 100. K.S.A. 2010 Supp. 76-327a is hereby amended to read as
40 follows: 76-327a. (a) There is hereby created within the university of
41 Kansas a Kansas fire service training commission which shall consist of
42 12 members which shall include:

43 (1) A member representing the Kansas state firefighters association,

1 to be selected by the governor who shall consider, but not be limited to, a
2 list of three nominees submitted therefor by the Kansas state firefighters
3 association;

4 (2) a member representing the Kansas state association of fire chiefs,
5 to be selected by the governor who shall consider, but not be limited to, a
6 list of three nominees submitted therefor by the Kansas state association
7 of fire chiefs;

8 (3) a member representing the Kansas state association of
9 professional fire chiefs, to be selected by the governor who shall consider,
10 but not be limited to, a list of three nominees submitted therefor by the
11 Kansas state association of professional fire chiefs;

12 (4) a member representing the international association of arson
13 investigators, to be selected by the governor who shall consider, but not
14 be limited to, a list of three nominees submitted therefor by the
15 international association of arson investigators;

16 (5) a member representing the Kansas fire marshal's association, to
17 be selected by the governor who shall consider, but not be limited to, a
18 list of three nominees submitted therefor by the Kansas fire marshal's
19 association;

20 (6) a member representing the Kansas fire educators association, to
21 be selected by the governor who shall consider, but not be limited to, a
22 list of three nominees submitted therefor by the Kansas fire educators
23 association;

24 (7) a member representing the Kansas state council of firefighters, to
25 be selected by the governor who shall consider, but not be limited to, a
26 list of three nominees submitted therefor by the Kansas state council of
27 firefighters;

28 (8) a member representing the Kansas community college fire
29 training, to be selected by the governor who shall consider, but not be
30 limited to, a list of three nominees submitted therefor by the Kansas
31 community college fire training;

32 (9) a member representing the ~~Kansas state fire marshal~~ *division of*
33 *facilities management of the department of administration who shall have*
34 *experience and expertise in fire service*, to be selected by the governor
35 who shall consider, but not be limited to, a list of three nominees
36 submitted therefor by the ~~Kansas state fire marshal~~ *secretary of*
37 *administration*;

38 (10) a member representing the Kansas forest service, to be selected
39 by the governor who shall consider, but not be limited to, a list of three
40 nominees submitted therefor by the Kansas forest service;

41 (11) a member representing the Kansas university fire service
42 training, to be selected by the governor who shall consider, but not be
43 limited to, a list of three nominees submitted therefor by the Kansas

1 university fire service training; and

2 (12) a member representing the emergency medical services board,
3 to be selected by the governor who shall consider, but not be limited to, a
4 list of three nominees submitted therefor by the emergency medical
5 services board.

6 (b) Six members initially appointed to a position described in
7 subsection (a) shall serve for a two-year term and thereafter the term of
8 members appointed to such positions shall be four years. The members
9 who shall serve two-year terms shall be chosen by lottery at the first
10 commission meeting. The initial two-year terms shall expire on July 1,
11 2004 and four-year terms shall expire on July 1, 2006. Vacancies in any
12 position shall be filled in the same manner as original appointments.

13 (c) The chairperson and vice-chairperson shall be selected by the
14 members of the commission at the first meeting of the commission and
15 shall serve for a term of two years. No chairperson shall serve more than
16 two consecutive terms. In the absence or disability of the chairperson, the
17 vice-chairperson shall exercise all the powers of the chairperson.

18 (d) The Kansas fire service training commission shall meet at least
19 quarterly in each year on dates fixed by the commission. Special meetings
20 may be held upon call of the chairperson of the commission or upon
21 petition to the chairperson by not less than seven commission members.
22 The date and place of all special meetings shall be designated in the call.

23 (e) Members of the commission shall receive mileage, tolls and
24 parking as provided in K.S.A. 75-3223, and amendments thereto, for
25 attendance at any meeting of the commission or any subcommittee
26 meeting authorized by the commission.

27 Sec. 101. K.S.A. 2010 Supp. 76-7,105 is hereby amended to read as
28 follows: 76-7,105. (a) Subject to the provisions of subsection (c), the state
29 board shall advise and consult with the joint committee regarding each
30 project. The state board shall not approve a project to be financed by
31 moneys from the infrastructure maintenance fund unless the state board
32 first has advised and consulted with the joint committee. A state
33 educational institution shall advise and consult with the joint committee
34 before expenditure of any moneys from the infrastructure maintenance
35 fund, or from any account or accounts of the infrastructure maintenance
36 fund of such institution, for each project. No moneys received by a state
37 educational institution as a contribution which qualifies as an income tax
38 credit pursuant to law to finance the cost of a project may be expended
39 unless the institution first has advised and consulted with the joint
40 committee.

41 (b) Except as specifically provided by this act, the project financed
42 under the program shall not be subject to any further process or procedure
43 that requires the submission, review or approval of any infrastructure

1 improvement. The state board shall ensure that projects financed under
2 the program comply with nationally recognized codes and life-safety
3 inspections under K.S.A. 31-132 et seq., and amendments thereto. Such
4 inspections, plan reviews and other related work shall be conducted by
5 the division of facilities management, or a designee of the division, prior
6 to certification for building occupancy. The state board shall not be
7 subject to the oversight of the ~~state fire marshal~~. *division of facilities*
8 *management of the department of administration*.

9 (c) The joint committee shall develop recommendations for a plan
10 for the management and oversight of projects financed under the
11 program. Such recommendations shall be submitted to the president of
12 the senate and the speaker of the house of representatives on or before
13 January 14, 2008.

14 Sec. 102. K.S.A. 2010 Supp. 76-3319 is hereby amended to read as
15 follows: 76-3319. (a) Notwithstanding any laws or regulations to the
16 contrary, the authority shall not be subject to any further process or
17 procedure that requires the submission, review or approval to any capital
18 project; however, the authority shall ensure that nationally recognized fire
19 prevention code and life safety inspections under K.S.A. 31-132 et seq.,
20 and amendments thereto, of any capital project are conducted and that
21 such projects are inspected by the ~~state fire marshal, or the state fire~~
22 ~~marshal's designee~~ *division of facilities management of the department of*
23 *administration*, prior to certification for building occupancy.

24 (b) The authority shall also be subject to any applicable state, county
25 and local building codes.

26 (c) The state building codes shall supersede any like standards of a
27 county or local code unless those standards are more stringent than the
28 state standards.

29 Sec. 103. K.S.A. 2010 Supp. 77-618 is hereby amended to read as
30 follows: 77-618. Judicial review of disputed issues of fact shall be
31 confined to the agency record for judicial review as supplemented by
32 additional evidence taken pursuant to this act, except that review of:

33 (a) Orders of the director of workers' compensation under the
34 workmen's compensation act shall be in accordance with K.S.A. 44-556,
35 and amendments thereto;

36 (b) orders of the Kansas human rights commission under the Kansas
37 act against discrimination or the Kansas age discrimination in
38 employment act shall be in accordance with K.S.A. 44-1011 and 44-
39 1021, and amendments thereto;

40 (c) orders of the division of vehicles, other than orders under K.S.A.
41 8-254, and amendments thereto, which deny, cancel, suspend or revoke a
42 driver's license shall be in accordance with K.S.A. 8-259, and
43 amendments thereto;

1 (d) orders of the secretary of labor under K.S.A. 72-5413 through
2 72-5431, and amendments thereto, shall be in accordance with K.S.A. 72-
3 5430a, and amendments thereto; and

4 (e) orders of the ~~state fire marshal~~ *division of facilities management*
5 *of the department of administration* under K.S.A. 31-144, and
6 amendments thereto, shall be in accordance with that section.

7 Sec. 104. K.S.A. 80-114 is hereby amended to read as follows: 80-
8 114. The officers of any township which has a township hall which has
9 been condemned by the ~~state fire marshal~~ *division of facilities*
10 *management of the department of administration* are hereby authorized to
11 issue bonds in an amount not to exceed ~~six thousand dollars (\$6,000)~~
12 *\$6,000* for the purpose of providing funds to repair and remodel such
13 hall. Such bonds shall be issued as provided by law, but without an
14 election: ~~Provided, That~~ , *so long as* before the issuance of such bonds,
15 such officers shall adopt a resolution authorizing the issuance of ~~said~~
16 *such* bonds which shall be published once a week for three consecutive
17 weeks in a newspaper of general circulation in such township and, if
18 within ~~twenty~~ *20* days after the date of the last publication, there is filed
19 with the township clerk of such township a petition protesting the
20 issuance of ~~said such~~ bonds, signed by not less than ~~thirty percent (30%)~~
21 *30%* of the qualified electors in ~~said such~~ township as determined by the
22 votes cast for the candidate receiving the greatest number of votes for an
23 elective township officer at the last preceding general election, ~~said such~~
24 bonds shall not be issued until the question of their issuance shall be
25 submitted to the vote of the qualified electors of the township at any
26 regular election or special election called for such purpose and a majority
27 of those voting on such question vote in favor of such issuance. Such
28 election, if one is called, shall be governed by the provisions of the
29 general bond law.

30 Sec. 105. K.S.A. 19-1579, 19-4625, 21-4318, 31-134a, 31-135, 31-
31 136, 31-138, 31-139, 31-141, 31-143, 31-146, 31-147, 31-148, 31-150a,
32 31-155, 31-156, 31-157, 31-165, 31-402, 36-132, 36-133, 36-134, 39-
33 928, 39-929, 40-2,110, 46-3201, 48-928, 50-644, 55-1803, 55-1807, 55-
34 1809, 55-1810, 55-1811, 55-1813, 65-429, 65-34,105, 74-133, 75-1503,
35 75-1505, 75-1506, 75-1507, 75-1511, 75-1515, 75-1516, 75-3136, 75-
36 3137 and 80-114 and K.S.A. 2010 Supp. 21-4201, 21-4217, 31-133, 31-
37 133a, 31-134, 31-137, 31-140, 31-142, 31-144, 31-150, 31-159, 31-170,
38 31-501, 31-502, 31-503, 31-504, 31-505, 31-506, 31-602, 31-603, 31-
39 604, 31-605, 31-606, 31-607, 31-608, 31-609, 31-611, 31-701, 31-702,
40 31-703, 31-705, 36-510, 39-925, 39-935, 39-938, 39-945, 40-252, 55-
41 1812, 65-506, 65-508, 65-34,133, 65-34,136, 65-34,137, 65-5703, 74-
42 4911f, 74-4978f, 74-5602, 74-8841, 75-1508, 75-1510, 75-1513, 75-1514,
43 75-1517, 75-3170a, 75-36,102, 75-36,103, 76-327a, 76-327f, 76-7,105,

1 76-3319 and 77-618 are hereby repealed.

2 Sec. 106. This act shall take effect and be in force from and after its
3 publication in the statute book.

4